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Current Topics.

The New Poor Person Rules.

THE NEW rules relating to proceedings by and against poor persons were the subject of comment by the Court of Appeal this week (*Everett* v. *The Law Society*, 21st June, 1926). These rules (Ord. 16, rr. 22–31), it will be remembered, have recently undergone radical alteration. Under the old rules, which were in force until April of this year, it was provided (r. 22) that: "Any person may be admitted to take or defend or be a party to any legal proceedings in the High Court of Justice as a poor person on satisfying the *Court or a Judge*" that he came within one of the categories therein set out. By the rules now in force, for the order of a "Court or a Judge" is substituted a certificate issued by *The Law Society*, and the point at issue before the court was whether an applicant had a right of appeal against the decision of the Committee of The Law Society refusing to grant him such a certificate. By r. 31A of the old rules there was a statutory right of appeal by leave of the Judge in Chambers before whom all such applications came. The new rules make no similar provision, nor, on the other hand, do they say there shall be no appeal: they are silent on the point. Under these circumstances it was contended that there was in the court an "inherent jurisdiction" to decide, by way of appeal, upon the claim of a poor person to sue *in forma pauperis*. The court, however, pointed out that they had decided in the case of *Cook* v. *Imperial Tobacco Co.*, 1922, 2 K. B. 158, that jurisdiction with regard to suing *in forma pauperis* was entirely statutory, and that the practice of the courts in this matter was regulated not by "general principles of practice in the superior courts of common law," but by reference to a particular code of rules. There was, consequently, no right of appeal, apart from statutory provision. In the case then before them, therefore, the court (BANKES, ATKIN and SARGANT, L.JJ.) held that as the new rules made no provision for appeal from the decisions of The Law Society, the applicant had no remedy. BANKES, L.J., however, went on to point out that the alterations in practice made by the new rules were, whether by accident or design, of a most radical character, and would, after this case, no doubt receive further careful consideration, and ATKIN, L.J., remarked upon the fact that nowhere in the rules now obtaining were any regulations set forth determining or indicating in any way the manner in which the Committee, entrusted by The Law Society with this most important work, was to perform its duties. He confessed that it startled him to find that a non-judicial body, from whose decision no appeal would lie, should have the power, as was here the case, to refuse an application by a person to sue *in forma pauperis* without granting him an interview and without stating any reasons for their decision.

An Author's Lost MSS.

THE CASE of *Summers* v. *Challenor*, *infra*, p. 760, in the Marylebone County Court raises a point of interest to authors on the one hand, and editors, actors, theatrical managers, newspaper proprietors, and all who handle original MSS. to decide on their merits, on the other. The plaintiff was an author, and his case against the defendant, the well-known actor, was that the latter had received the MSS. of two plays, and, in circumstances which did not rebut the presumption of negligence, had then lost them. Fortunately, the scripts were typewritten copies, and, the originals being preserved, the damage was confined to the expense of re-typing, a sum of £3 9s. 9d., which the learned judge awarded the plaintiff.

Defendant's counsel duly cited *Howard* v. *Harris*, 1884, Cababé & Ellis, 253, in which the late Sir AUGUSTUS HARRIS, of Drury Lane, was held not to be liable for the loss of a MS. in somewhat similar circumstances. There, however, the defendant had promised to consider a "scene, plot, and sketch" of a play, and together with such syncopated version the plaintiff had also sent the original, which the defendant had not promised to read. The case, therefore, was within such authorities as *Lethbridge* v. *Phillips*, 1819, 2 Stark. 544, also quoted at Marylebone, to the effect that a person to whom goods are consigned without his knowledge or consent has no duty of care for them, though, of course, he must not appropriate them against the sender's wish. In Mr. CHALLENOR'S case, some correspondence had passed, and, although not requesting to see the MSS., he had professed himself willing to peruse them if sent, and, when sent, had acknowledged their

receipt. This appears to have placed him in the ordinary position of a gratuitous or voluntary bailee, and the case falls into line with *Ultzen* v. *Nicols*, 1894, 1 Q.B. 92 (as to the loss of a great-coat hung up by him and taken by a waiter at a restaurant from a customer, and so lost) and *Phipps* v. *The New Claridge's Hotel, Ltd.*, 1905, 22 T.L.R. 49 (the loss of a dog entrusted to a servant at an hotel). Thus, an author who sends an unsolicited MS. must take his chance (unless, perhaps, there is a general invitation to the public to send MS. and he can prove receipt, on the principle of *Carlill* v. *Carbolic Smoke-ball Co., Ltd.*, 1893, 1 Q.B. 256), but if an editor or publisher offers to consider a MS., he undertakes to take ordinary care of it.

The Commemoration of Lawyers.

To the list of books devoted to registering London houses associated with the names of famous men of letters, Mr. C. G. Harper, whose topographical works are many, has added yet another in his recently published "A Literary Man's London." These works, and the plaques with which the London County Council and the Society of Arts have marked the houses of celebrated men of the past, add not a little to the pleasure of the visitor as he saunters through our streets, and they are, indeed, a remarkable tribute to the potency of literary genius. But is this tribute to be confined to men of letters and artists? In such a recognition should lawyers, who have deserved well of the nation, be almost entirely forgotten? In a well-known passage in "Pendennis," Thackeray raises a very similar question, asking whether the student of law, as he passes by historical chambers, indulges in poetical reminiscences and says, "Yonder Eldon lived; upon this site Coke mused upon Littleton; here Chitty toiled; here Barnwell (*sic*) and Alderson joined in their famous labours; here Byles composed his great work upon Bills, and Smith compiled his immortal Leading Cases." The great novelist spent some time in a pleader's chambers in the Temple, and, as he passed through the cloistered precincts, may have indulged in such poetical reminiscences, but few, it is to be feared, emulate his example. Mr. Bellot, in his book on the Inner and Middle Temple, has identified for us many famous chambers, and in Bloomsbury the residences of one or two distinguished judges have been marked with commemorative plaques, but this form of recognition of the lawyers of the past has been slight. In other countries public appreciation of the memory of judges and lawyers has been more generous. It is true that the work of the lawyer does not make the same appeal to the imagination as does that of the man of letters, the artist or the actor, but surely his contribution in the development of civilization deserves greater recognition than as yet it has received in this country.

Mothers and Vaccination.

The case of a doctor at Kingston-on-Thames, who was fined for failing to have his child vaccinated, suggests a problem under the new Guardianship Act. The doctor himself either believed in vaccination, or at least personally was not unwilling to comply with the statutory requirement. In deference to his wife's strong objection, however, he omitted to do so. Before the Guardianship of Infants Act, 1925, came into force there could be no doubt but that the ultimate decision in respect of vaccination lay with the father of a legitimate child if alive. If he greatly disliked the process he made the declaration required by the Act of 1907. If his dislike was not sufficient to induce him to make the declaration, he was expected to have the child vaccinated. It is true, of course, that the Act of 1867 requires "the parent" to submit the child for vaccination, and s. 35 defines "parent" to include the father and mother of a legitimate child; but since the father had the right in the last resort to over-ride the mother's wishes, the authorities, properly, no doubt, dealt with him alone. The Guardianship Act has so changed the law that the father and mother have now an equal voice as to the custody or "upbringing" of a child. This being so, it is submitted that the vaccination authorities are, at least in the absence of a positive veto on the part of the father, bound to take the mother's statutory declaration under the Act of 1907, and that such a declaration is or should be an absolute defence to the prosecution of either spouse for failing to comply with the Act of 1867. In the case above it did not appear that the mother had made such a declaration, and, in its absence, the defence that she objected was not sufficient. The provisions in the Guardianship Act giving the mother an equal voice with the father in respect of the child's upbringing make the possibility of a deadlock, which is dealt with in s. 6. The court (which by s. 7 includes a court of summary jurisdiction) may in such case, on the application of either, have a casting vote, or possibly may even direct a third course in suitable circumstances. In the case of vaccination, however, there are alternatives, but no third course. Given a contest so acute between the spouses as to bring s. 6 into play, the court would presumably over-ride a mother's conscientious objection.

Liability for being Drunk in one's own House.

Although a person is not in general amenable to the criminal law, if he happens to be drunk in a private house, whether his own or that of another person, yet there may apparently be circumstances which render drunkenness in such a case an offence. A curious and interesting illustration is afforded by *Evans* v. *Fletcher*, 42 T.L.R. 507. In that case the licensee of certain licensed premises was charged with being found drunk on licensed premises under s. 12 of the Licensing Act, 1872, which provides that "Every person found drunk in any highway or other public place, whether a building or not, or on any licensed premises, shall be liable to a penalty not exceeding ten shillings . . ." In the case in question, it appeared that about 10.30 p.m., after licensing hours, a police-constable heard quarrelling and swearing going on on licensed premises. He entered by the front door, which was wide open, went into the kitchen and saw the respondent, the licensee, drunk. There was no sign of beer being consumed on the premises at the time. An information was preferred against the respondent under the above section, but the justices refused to convict, since they were of opinion that, as the time was past licensing hours, the premises were to be regarded as the private residence of the licensee and not as licensed premises. On a case stated, however, the Divisional Court did not agree with this view, and held that the premises had to be regarded as licensed premises notwithstanding, inasmuch as they were open at the time for business. The principle, to be applied to that case, from the authorities, was thus enunciated by Avory, J., in his judgment (see at p. 500): "If licensed premises are open for business of any kind, whether for the sale of alcoholic liquor or otherwise, or if, in fact, they are open so that the public have access to them, and the licensee is found drunk on them, then the privilege which is said to attach to a person getting drunk in his own home cannot be claimed by the licensee." There is one submission, however, we would respectfully venture to make. The offence in this case took place in the kitchen, to which the public had no access, and the point might have been argued that the drunkenness did not in fact take place on premises to which the public had access. Otherwise it might be said that a licensee of a large hotel, who was found drunk in an upper attic after licensing hours, but not while the hotel was closed to the public, would be equally liable of an offence under the above section.

Relief from Disability under Registration of Business Names Act, 1916.

An important point as to the power of the court to grant relief against the disability imposed by Registration of Business

Names Act, 1916, has recently been decided by the Court of Appeal, in *Re A Debtor* (*Times*, 22nd inst.).

In that case a person sued in his trade name for flour sold and delivered and obtained liberty to sign judgment under Order XIV, for part of the sum claimed, unless the defendant paid that sum into court. This sum being unpaid, judgment was signed, whereupon the defendant appealed to the judge in chambers, who affirmed the order of the master, and further granted relief to the plaintiff in respect of disability he had incurred under the Registration of Business Names Act, 1916. The plaintiff subsequently presented a petition in bankruptcy against the defendant, and obtained a receiving order. The debtor thereupon appealed, the point raised in the appeal being, that inasmuch as the relief under the above Act was granted after judgment, it was granted too late, and that therefore the petition was invalid. Section 8 (1) of the above Act provides in effect that persons who are in default shall be under the disability of being unable to enforce their rights arising under any contract in relation to the business, "by action or other legal proceeding, either in the business name or otherwise," but according to proviso (*a*) to that sub-section, the court is empowered in certain cases to grant relief "either generally or as respects any particular contract" on the terms and conditions therein mentioned. That the High Court has power to grant relief, even after an action has been commenced, by issue of a writ, was decided in *Hawkins* v. *Duché*, 1921, 3 K.B. 226. In that case Mr. Justice McCardie pointed out that s. 8 (2) of the Act clearly gave the County Court such power, and it was therefore unreasonable to hold that the legislature had limited the powers of the High Court in this respect. Mr. Justice McCardie moreover attached great importance to the power given to the court by s. 8 (1) (*a*), to grant relief "generally." "I consider," said the learned judge, 1921, 3 K. B., at p. 231, "that the word 'generally' should receive a liberal interpretation. In my view the use of that word helps to show that the power of the High Court is not limited . . . After carefully considering the proviso . . . I venture to say: First, that the proviso, upon the face of it, gives the High Court the widest powers of relief. Secondly, that there are no express words which limit those powers to relief before writ issued. Thirdly, that there is nothing in the scheme of the proviso, or the scheme of the Act, which so limits the jurisdiction of the High Court. Fourthly, that the final proviso of s. 8 assumes that the powers of the High Court are not so limited. Fifthly, that the fair administration of justice as between party and party requires a construction of the Act which gives the High Court a power to grant relief as well after as before action." The decision in *Hawkins* v. *Duché* may therefore now be regarded as having been carried a step further by the decision in *Re A Debtor*—which is moreover a decision of the Court of Appeal—in that the latter case is an authority for the proposition, not only that the High Court (or even it seems the County Court) has power to grant relief after action brought, but even after judgment signed, and that when such relief is given, it may be regarded as going right back to the contract sued on.

Wife's Costs of Divorce Proceedings.

Attention may be drawn to an important judgment recently delivered by Mr. Justice Hill in *Baldwin-Raper* v. *Baldwin-Raper*, *Times*, 16th inst., on the question of a wife's costs in divorce proceedings. There a husband presented a petition for judicial separation on the ground of cruelty against his wife, and later presented a supplemental petition for dissolution of marriage against her. The respondent wife and the co-respondent denied the allegations made by the husband in his original and supplemental petition, and the wife cross-petitioned for dissolution on the ground that her husband had been guilty of alleged unnatural offences. At the trial, the husband's original petition was dismissed, but his supplemental petition was allowed and a decree granted to him. As regards the wife's cross-petition, this was dismissed, the court expressing its opinion at the same time that this petition was based on charges by the wife which were the inventions of her mind.

On the question of costs, the judge held that as the husband's original petition for judicial separation never had any chance of succeeding, the costs of that petition should be borne by him. The question then arose as to whether the husband ought to be given the costs of the wife's cross-petition. The material facts on which the judge could exercise his discretion were that the husband was of small means and would find it very difficult to pay all the wife's costs; that the wife had an income of £553 a year under the trust of a will, and a further income of £286 a year under a marriage settlement made by her first husband. The wife, however, was indebted to the extent of £1,267, so that the wife's solicitors would have little chance of obtaining their costs from the wife. Mr. Justice Hill, notwithstanding, directed that the husband should be awarded the costs of the wife's cross-petition, inasmuch as the charges were unfounded, and the wife ought to have been made liable for the costs thereof, if she could in any way be made liable therefor.

In arriving at his decision, Mr. Justice Hill was guided by the principle laid down by Lord Justice Lindley in *Russell* v. *Russell*, 1892, P. at p. 157, to the effect, that although the court considers the claims of the wife's solicitor, yet the solicitor has no independent right against the husband, his rights being derived solely from such rights as the wife might have against her husband.

Guardians Right to Recover Maintenance.

The doubts expressed by the Divisional Court in *Pontypridd Guardians* v. *Drew*, 42 T.L.R. 405, as to the right of guardians to recover ordinary poor relief from the recipient thereof, have now been set at rest by the Court of Appeal, on an appeal from the Divisional Court in the same case (*Times*, 22nd inst.). The Divisional Court found itself bound by such authorities as *In re Clabbon*, 1904, 2 Ch. 465, and *Birkenhead Guardians* v. *Brookes*, 22 T.L.R. 583, to hold that such a right existed at common law entitling guardians to recover ordinary poor relief from the recipient thereof when he was in a position to pay for the same. Looking at the matter according to general principles, it would appear that such liability cannot be founded on implied contract. As Salter, J., pointed out, when the case was before the Divisional Court (42 T.L.R. 407): "I think it would be impossible to imply such a contract. When a man voluntarily supplies his goods to another on request, it is reasonable to suppose that he expects to be paid and that the receiver agrees to pay. But when a man applies to be supplied with goods on the sole ground that he cannot pay for them, having no right to be supplied if he can pay for them, it seems to me impossible to infer from the conduct of the parties that the promise to pay for them or that the guardians stipulate for payment." And it would seem that the same reasoning would preclude the creation of any liability founded on *quasi*-contract as, for example, where necessaries are supplied to an infant, since it would seem essential to the liability *quasi ex-contractu* "that the circumstances should be such that there would be a liability *ex contractu* if there were capacity to contract" (42 T.L.R. 407). The Court of Appeal, however, have reserved the question as to whether there might be any such right of recovery *quasi ex-contractu* on the part of the guardians in cases where relief has been given to such persons as lunatics or minors or married women, but they have held that apart from the statutory powers to recover, as, for example, where the relief has been given by them expressly by way of loan, the guardians have no common law right of recovering relief given by way of ordinary poor relief from a pauper of full age and competency.

Law Reports and Law Reporters.

CASE law is and always has from most remote times in this country formed a most important part of the whole body of English Law. The practical form in which it is and has always been used in this country is in the reports of judicial proceedings. These reports if they are to be cited as authorities in our courts of law must bear the signature either of a member of the Bar or of a member of the Bench, and it is still, even to-day, a polite fiction that the reports of all members are of equal weight and authority, although where two reports of the same case cited in our courts to-day differ, judges have been known to depart from this ancient polite fiction and prefer one report to another. In very ancient times the judge used to report his own decision, that is to say, he used to have a note of his decision recorded on parchment, and this used to be borrowed by his learned brother for purposes of instruction, enlightenment and reference when he was dealing in his court with a similar case. These old MSS., we are told, passed from hand to hand until they must have become very worn out. Sometimes the judges appear to have gone far beyond the actual judgment of the case, and to have written a sort of treatise on the particular department of law which they were considering, consisting very largely of what are called now "Obiter Dicta," that is to say, statements of the judge's opinion not binding on anybody, which statements were once referred to by a learned lawyer as "gratuitous impertinences." This method of reporting cases was very early recognized as being inconvenient, and there seems very little doubt that as early as the reign of King Edward I, who has been so inappropriately styled the English Justinian, a proper official reporter was appointed, at least in the Exchequer Court, for his reports are actually included in Serjeant Maynard's edition of the Year Books published in 1678. It is true that that learned antiquary HOWELL included in his edition of the State Trials (1816) two even earlier causes, both celebrated. I refer to the trials of THOMAS À BECKET for High Treason in 1163 and the trial of HUBERT DE BURGH in 1239 for not having handed over to the King the money which he received on the marriage of RICHARD DE CLARE, but these two reports are not reports in the modern sense of that word. After the time of King Edward II the official reports of those days, mostly produced by the official reporters and now referred to as the Year Books, appeared with quite surprising frequency right up to the time of King Henry VIII. It is stated by Sir HARBOTTLE GRIMSTON of the writers of these reports in his preface to "Croke's Reports" (1581-1641) that "the wisdom of our former Kings appointed four reporters to commit to writing and truly to deliver as well the words spoken as the judgments and reasons thereupon given in our courts at Westminster." Thus showing how early the idea of the modern report with its statement of the facts, arguments of counsel, and judgment of the judge was evolved in our judicial system. Much has been written and is still to be written concerning the formation and the contents of these old Year Books and concerning the compilers of them. A great storm of conflicting opinion as to whether they were official reporters or not has raged, and some of the moderns now stoutly contend that no official reporters were every appointed by the King, but that all the old reports like the later ones are the outcome of individual effort. The contentions put forward by these very distinguished and learned lawyers, Sir FREDERICK POLLOCK, Dr. BOLLAND and Professor HOLDSWORTH from a minute scrutiny of the Year Books themselves that they were the work of volunteers are supported by the fact that during the time these alleged official reports were appearing from time to time there certainly appeared other reports of individual reporters, such, for instance, as the reports of BENLOE, the earliest of which is dated 1358 and the later reports still during the currency of the Year Books of DALLISON, KEILWAY, DYER, MOORE and BROOKE, but there is, alas! no evidence at all that any of these individual reports circulated during the lives of their writers, and they were probably all given to the profession long after their deaths, although, on the other hand, there is no reason to be gathered from an examination of them why they should not have been used like the oldest reports of the judges which passed from hand to hand among the judges in MSS. All these reports contain cases of very great interest, often very quaintly reported. That these reports were passed from hand to hand as and when they were written and before publication is necessarily suggested by those students of SHAKESPEARE who allege that the conversation of the grave-diggers in "Hamlet" was suggested by one of the reports of PLOWDEN, for PLOWDEN'S reports were certainly not published till some time after SHAKESPEARE'S death. During the Tudor period there were not a very large number of different reporters working, but this is the time when we first find separate reports appearing of our Chancery cases. The first separate volume of Chancery cases only was that of CARY (1556-1604). There was also during this period another volume devoted to the Equity side of the courts called "Choice cases in the Chancery." With the start of the Stuart period appear the epoch-making reports of Sir EDWARD COKE, Chief Justice, still cited as "The Reports." COKE set the fashion, and thereafter there appeared a stream of overlapping reports, many of them somewhat indifferent and nearly all of them discursive. An outstanding set of good reports at this time are those of that distinguished old judge, Sir GEORGE CROKE, who deserves a whole article to himself. His reports are somewhat humorously cited as "Cro Eliz., Cro Jaques and Cro Car," and they display amazing industry and research. The names of the individual reporters in the Stuart period is legion. There are good, bad and indifferent. Of outstanding merit are probably those of BRIDGMAN, RAYMOND, SAUNDERS, VENTRIS, HOLT and SALKELD, each one of which deserves some slight description to itself, being often the life work of a learned man. Strange to say, there were not so many reporters during Hanoverian times as in the Stuart period, and many of those that there are are scarcely ever referred to now in court, and when referred to are not always referred to in complimentary terms, although there are many very excellent Hanoverian reports, such, for instance, as those of WILLIAM BLACKSTONE (1746-1780) and HENRY BLACKSTONE (1788-1796). I remember hearing an attempt by a very junior member of the Bar to cite from the reports of ESPINASSE (1793-1807) when addressing the Court of Appeal on an application for leave to appeal. The attempt was firmly discouraged by a very ancient junior long since dead with the words: "My lords, I always understood Mr. ESPINASSE was stone deaf, that he knew no law, and that the judge whose decisions he reported could never be understood."

Delightful little human touches of malice and also of good humour are to be found in these books in the remarks made by the judges about the reporters and their reports, and even about their colleagues on the Bench. How history repeats itself to-day! The prefaces to the reports alone are very interesting as giving such various reasons for writing them, and all showing that the old reporters were free lances at the Bar, reporting whatever they pleased. Indeed, good old Sir JAMES BURROW (1756-1774) objected very strongly when by reason of the enormous increase in the number of reporters in the courts the judges presumed to give them some sort of licence or authorization. He refused to accept it, saying that he was well enough known to the profession to be able to dispense with any judicial certificate of character. The individuality of the reporters is an outstanding and peculiar feature of our English case law reports, and is characteristic of our institutions. These old books abound in little glimpses of the human side of the work of the courts. Such, for instance, as the little glimpse we get of Serjeant BARNARDISTON asleep over his note-book while some mischievous "devil" abstracts it and writes nonsense in it and

returns it, or old WILLIAM STYLE who tells us that in a particular case he took no note of the argument because, having a cold, he could not hear it.

But enough said, suffice it that the contents of many of these old reports well repay the often heavy labour of getting them down from some high shelf in the clerk's room to which they have long been relegated and dusting them. The lives of the old reporters themselves are also full of incident, interest, humour and pathos. Many of them were not too proud to continue their labours as reporters long after they had been elevated to the dizzy heights of the judicial bench.

No mention of Law Reports would be adequate without some reference to that wonderful little book, full of genius and fascination, of the leading cases in verse which appeared anonymously long ago and has been a joy and delight ever since to anyone lucky enough to pick up a copy. I believe it is an open secret now that it was written by Sir FREDERICK POLLOCK, and, after all, who else could have written it ?

Local Authorities and Strike Relief.

IN all human probability strikes of one kind or another will be with us for some time to come. So that local authorities that are called upon to administer public funds for the relief of distress caused by strikes should take stock of the legal position.

The leading case on this subject is *Attorney-General* v. *Merthyr Tydfil Guardians*, L.R. 1900, 1 Ch. 516. A strike of colliers occurred in 1898, in South Wales whereby many men who were not colliers were thrown out of employment. Colliers and other workmen in the Merthyr Tydfil Union applied for poor relief. The guardians established labour yards and relief works, and, partly by these yards and works, and partly by gifts of food or money, the necessitous workmen and their families were relieved. So far as the colliers were concerned, work was offered to them in neighbouring collieries, but they would not accept it, and of this the guardians were aware. The Powell Duffryn Steam Coal Company, with the Attorney-General's fiat, claimed that, at any rate so far as related to the colliers or other able-bodied persons who could obtain work, the guardians ought not to have relieved them, that the payments made to the colliers or persons in the same position ought to be disallowed and refunded by the guardians, and that the guardians should be restrained from giving further relief to such colliers or able-bodied persons. Sir EDWARD CLARKE, Q.C., for the guardians, urged that it was the duty of the guardians to give relief, and that, if they found persons in actual want of money and food, it was not for them to inquire into the causes of the destitution. The scheme and policy of the poor law was that destitution must be relieved, and, if the guardians refused to grant relief and the destitution resulted in fatal consequences, they would be indictable for manslaughter, and, apart from any question of manslaughter, if a relieving officer refused to grant relief in a case of sudden and urgent necessity, he was guilty of a criminal offence. ROMER, J., dismissed the action, but his decision was reversed by LINDLEY, M.R., with whose judgment RIGBY and VAUGHAN WILLIAMS, L.JJ., concurred.

This was the declaration granted : "That the payment by the defendants out of the poor rates of any money for setting to work or for the relief of able-bodied men, who were at the time able to obtain and perform work at wages sufficient to support themselves (and their wives and families, if any), was unlawful and ought to be disallowed by the auditor on auditing the defendants' accounts. But this declaration does not include relief given to or for the wives and children of such men, and the declaration is to be without prejudice to and is in no way to affect the power of the Local Government Board to remit such disallowed payments, although unlawfully made, under the Poor Law (Audit) Act, 1848, 11 & 12 Vict. c. 91, s. 4, or any other statute enabling them so to do."

This case was considered recently by RUSSELL, J., in *Attorney-General* v. *Poplar Guardians*, 1924, 40 T.L.R. 752, and by TOMLIN, J., in *Attorney-General* v. *Bermondsey Guardians* 1924, 40 T.L.R. 512.

In the *Poplar Case*, the guardians during a strike relieved able-bodied men though work was available for them at wages sufficient to support them and their wives and families, and an action was brought by the Attorney-General, on the relation of certain ratepayers, for a declaration that this was unlawful. The defendants contended (1) that the matter was one purely for the auditor ; (2) that, as a large number of men in the district obtained, in normal times, only casual work, it could not be said of any one man in receipt of relief that he could have obtained work ; (3) that, as a large number of persons were deprived of unemployment insurance benefits because the stoppage of work was due to a trade dispute, the payments were lawful ; and (4) that, as the men were prevented by terrorism from seeking work, no work was available for them. It was held, as to (1) that the powers of the auditor did not oust the jurisdiction of the Court ; as to (2) that the principle laid down in the *Merthyr Tydfil Case*—that if the guardians gave outdoor relief to able-bodied men for whom work was available the guardians were doing an illegal act—was applicable generally, whether all the men could or could not have obtained work, at a particular time ; as to (3) that the legislation as to unemployment insurance did not affect the principle ; and, as to (4) that, on the evidence, terrorism did not make it impossible for the men to continue work.

In the *Bermondsey Case*, the guardians deliberately made unlawful payments of poor relief to able-bodied strikers, and, when invited by some ratepayers to admit liability and to submit to a surcharge, refused to make any admission. An action was brought by the Attorney-General against them on the relation of ratepayers for a declaration that the payments were unlawful. After action brought, the district auditor, on his audit, which the relators attended, surcharged the amounts on some of the guardians. At the trial, the defendants admitted the illegality, but contended that, as the relator had adopted the alternative procedure of asking the auditor to make a surcharge, there was no case for a declaration. It was held that, as the defendants had before action refused to make any admission, the action was, at the date of the writ, fully justified, and that the fact of the audit did not affect the form of the order which the Court had power to make, but that, as the defendants by their counsel admitted the illegality, the order of the Court would be prefaced with a statement of such admission and would be that the defendants must pay the costs of the action.

(To be continued.)

A Conveyancer's Diary.

"Immediate Binding Trust for Sale" : Settled Land.

An interesting decision, but one whose effect, owing to the operation of the L.P. (Amend.) A., 1926, it is submitted, is transient, was recently given by Mr. Justice Tomlin, in *Re Leigh's* S.E., 1926, W.N. 191.

In that case, land was limited by a will, dated in 1861, to S for life, with remainder, in the events which had happened, to his daughter in tail, In 1885 S, in exercise of a power contained in the will, appointed a jointure rent-charge to his wife, H. The tenant for life, S, died in 1921. In 1923 the daughter executed a disentailing assurance and, subject to the jointure conveyed the property to trustees, on trust for sale, the rents and profits until sale being directed to be held in trust for the daughter for life.

Two questions arose before the Act of 1926 became law, namely, whether or not (i) a vesting deed was necessary for giving effect to the settlement of the land subsisting on the 1st January, 1925, (ii) certain orders, made under s. 7 of the S.L.A., 1884, giving the daughter all the powers of a tenant for

life of the settled land were still in force, and enabled the daughter to exercise such powers, and a summons was taken out to have these points determined.

Tomlin, J., held that the alleged compound settlement constituted by the testator's will, the disentailing deed, the conveyance on trust for sale, and the settlement of even date, constituted a compound settlement under s. 1 of the S.L.A., 1925, and that the daughter was "a person entitled to the income of land under a trust or direction for payment thereof to (her) during (her) life . . . or until sale of the land," and that the land was not subject to "an immediate binding trust for sale" within s. 20 (1) (viii) of the S.L.A., 1925. The daughter, therefore, had the powers of a tenant for life under the S.L.A., 1925, and was *primâ facie* the person in whose favour a vesting deed should be executed pursuant to Pt. I of the 2nd Sched. to that Act.

The question whether or not the daughter fell within the class of owners described in s. 20 (1) (viii), *supra*, depended upon the view taken of the meaning of the words "unless the land is subject to an immediate binding trust for sale." These words were construed by Tomlin, J., to mean, unless all the interests in the land which were the subject-matter of the settlement were subject to an immediate trust for sale, and would be over-reached by a conveyance made pursuant to that trust.

This decision, in our opinion, is a somewhat startling one, and it is submitted that, had the attention of the learned judge been drawn to the cases of *Re Horne*, 1888, 39 Ch. D. 84, and *Re Goodall*, 1909, 1 Ch. 440, less difficulty would have been experienced in ascertaining the force of the expressions "immediate" and "binding" in the above context, and in the definitions given of a trust for sale in the L.P.A., 1925, and the S.L.A., 1925.

In *Re Horne*, there was a devise of land to trustees upon trust for sale, but with a direction that the part of the land in question should not be sold until the expiration of twenty-one years from the date of the will. North, J., held that there was no trust or direction for sale within the meaning of s. 63 of the S.L.A., 1882. "The will," he said, 39 Ch. D., at p. 88: "contains a trust for sale followed by a proviso . . . that the property is not to be sold until the expiration of twenty-one years from the date of the will . . . Under the circumstances, I think, there is not any 'trust or direction for sale' within the meaning of s. 63. If you omit the proviso no doubt there would be a trust for sale. But if you read the proviso (and it is part of the will) there is no trust for sale until the expiration of the period mentioned in it . . . In my opinion there is no trust for conversion at the present time."

In *Re Horne*, therefore, we have an explanation of the use of the expression "immediate."

(To be continued.)

Landlord and Tenant Notebook.

Determination of Weekly Tenancies by Notice to Quit.

The decision, recently delivered by the Divisional Court in *Newman* v. *Slade*, Times, 8th June, 1926, is to be welcomed and should have the effect of dispelling the doubts, hitherto prevalent, as to the manner of determining a weekly tenancy by notice to quit. In this case the tenancy in question was a tenancy from Monday to Monday, and the question for the determination of the Court, was whether a notice given on Monday, the 8th February, 1926, to quit on the following Monday, the 15th February, 1926, was a good notice. The short point was whether seven clear days' notice had to be given, or whether on the other hand a calendar week's notice would suffice.

The law may now be regarded as being clear that a weekly tenancy can, apart from express agreement, statute or custom to the contrary, only be determined by a week's notice, expiring on a periodic recurring date of the tenancy. Apart from the length of the notice, it is important to determine the day on which the tenancy in question expires. On this point reference may be made to *Huffell* v. *Armistead*, 7 C. & P. 50. Although that case in effect decided that in the case of a weekly tenancy, a week's notice could not be implied as a part of the contract—a decision, however, which has not been followed in later cases—the case is important because of the dicta of Parke, B., with reference to the calculation of the periodic date on which such a tenancy would determine. "The only question" said the learned Baron (16 Alp. 57), "is whether the tenancy commenced on the Saturday or the Monday. If it commenced on the Monday, I think the defendant who entered on that day, was at liberty to quit on the same day in another week. I cannot say a week has been exceeded by holding for six days and some fractions of a day." From these dicta, it is clear, therefore, that a weekly tenancy which commences, on, for example a Wednesday, can only be determined on a Wednesday and not on a Tuesday, so that the notice to quit must request the tenant to leave on a Wednesday.

Again, in *Harvey* v. *Copeland*, 30 L.R. Ir. 417, Gibson, J. said: "The last question is, must the notice coincide with the day of the commencement of the tenancy (Thursday)? In the case of a yearly tenancy, there is a tacit renovation of the contract for a year, and hence it has been held that the notice to quit must be with reference to the expiration of the current year of the tenancy . . . If the yearly letting cannot be determined in the middle of the current year, why should the lesser tenancies be determined in the middle of the current month or week, as the case may be? The opinion of Wells, J., in *Jones* v. *Mills*, 10 C.B. N.S. 788, is distinct, that a weekly tenancy cannot be put an end to before the end of the current week. The *present notice is for Friday, though the tenancy began on Thursday, which was the rent day.* This seems to me (though I feel some doubt) to invalidate the notice. . . The tenant was entitled under the notice to remain until midnight on Friday, no matter when his tenancy began. The notice was, in my opinion insufficient, and the defendant is entitled to succeed."

The case of *Queen's Club Gardens Estate* v. *Bignell*, 1924, 1 K.B. 117, may be regarded as the leading case on the method of determining weekly tenancies by notice to quit. That case may be regarded as the final case that authoritatively laid down the proposition that a weekly tenancy can only be determined, apart from agreement, etc., by a week's notice, expiring at the end of a periodic week from the commencement of the tenancy. That the notice must be stated to expire on the same day as the commencement of the tenancy, would appear to be the inference from the following passage in Lush, J.'s judgment, 1924, 1 K.B. at p. 122. "The final question of law is whether the notice to quit was valid or invalid. The defendant was a weekly tenant . . . The weekly tenancy began on a Saturday. On 6th October, 1922, which was a Friday, the plaintiff, the landlord, served upon the defendant a notice to quit, which was expressed to be 'the requisite week's notice for the termination of your tenancy, one week from Monday next.' The notice to quit, therefore, did not *expire at the end of a current week, that is to say upon a Saturday.*"

The decision in *Newman* v. *Slade*, may be regarded as an ancillary one to the decision in *Queens Club Garden Estates* v. *Bignell*. While the latter lays down the rule that a week's notice, expiring on a periodic recurring date of the tenancy, is requisite to determine a weekly tenancy, the former indicates what is a week's notice for the purpose of the above rules. Such a notice need only be a calendar week's notice, and not seven clear days' notice in the strict sense.

Who is a Landlord within s. 2 (1) of the Rent Act, 1923.

It is unfortunate, in a way, that the Divisional Court in *Finey* v. *Gougoltz*, 42 T.L.R. 501, invoked the aid of s. 12 (7) of the 1920 Act in order to arrive at the decision that the appellant in that case was to be treated as the landlord and not as the tenant, since the point may now be taken that the only circumstance in which the tenant is to be regarded as a landlord for the purpose of s. 2 (1) of the 1923 Act is when the tenancy is one which comes within the provisions of s. 12 (7) of the 1920 Act.

Section 12 (7) of the 1920 Act provides that: "Where the rent payable in respect of any tenancy of any dwelling-house is less than two-thirds of the rateable value thereof, this Act shall not apply to that rent or tenancy . . . and this Act shall apply in respect of such dwelling-house as if no such tenancy existed or had ever existed," and s. 2 (1) of the 1923 Act excludes from the operation of the Act premises in cases where the "landlord" is in, or has come into, possession thereof on or after the 31st July, 1923, subject to the proviso that "where part of a dwelling-house to which the principal Act applies is lawfully sub-let, and the part so sub-let is also a dwelling-house to which the principal Act applies, the principal Act shall not cease to apply to the part so sub-let by reason of the tenant being in or coming into possession of that part . . ." Three persons are clearly contemplated by this proviso, viz.: a head landlord, his tenant who may be called a sub-landlord, and an occupying tenant of part of the demised premises, who is the sub-tenant of the sub-landlord. The difficulty is, of course, whether the person who occupied in reality the position of a sub-landlord is to be treated as a sub-landord or as a head landlord for the purpose of s. 2 (1), and the correct determination of this question in any given case is by no means an easy one.

(*To be continued.*)

Correspondence.

The Law of "Cut-over."

Sir,—I beg leave to be at variance with a statement published by your Journal in the issue of 22nd May, 1926, p. 638, in connection with the doctrine expounded in the case of *Stanley* v. *Powell*, 1891, 1 Q.B. 86. The proposition cited, was, in substance, as follows: ". . . That a trespass to a person is not actionable, if it be neither intentional nor the result of negligence . . ." This rule of action was expressed to be the attitude of English judicial opinon; adding, however, the enlightening statement that this doctrine of *Stanley* v. *Powell* was contrary to the weight of American decisions.

A close study of leading American decisions concerning the doctrine of *Stanley* v. *Powell*, *supra*, will serve to show, not a departure from the rule in this case, but a decided accord with the doctrine expressed therein in this leading English case.

It appears necessary to study one or two leading American decisions on the subject. One leading American case in particular presents an interesting clarification on this subject of accident occasioned by unintentional injury. In this case (*Brown* v. *Kendall*, decided by the Supreme Judicial Court of Massachusetts in 1850-6 Cush. 292) the defendant while endeavouring to part fighting dogs, one of which was his own, sought to end the quarrel by belabouring the dogs with a stout cudgel held and moved by a swift arm. The plaintiff, owner of the other dog, attempted to intervene, and in so doing was accidently struck in the eye by the defendant's cudgel, as he (the defendant) was retreating before the onrush of the dogs. The plaintiff's eye was severely injured. Action for damages. The court held that defendant's act in attempting to part the fighting dogs was lawful and proper, and if in so doing it, he used due care and all proper precautions to avoid hurt to others, then the injury to the plaintiff was unavoidable and involuntary, and defendant should not be held liable therefor.

In my humble estimation, the rule of American authorities sustaining the proposition aforementioned in the case of *Stanley* v. *Powell* is summed up by a noted authority on evidence. The plaintiff must come prepared with evidence to show either that the intention was unlawful, or that the defendant was in fault; for if the injury was unavoidable, and the conduct of the defendant was free from blame, he will not be liable (2 Greenleaf Evidence, pp. 85-92).

In a footnote to the case of *Brown* v. *Kendall*, mention is made of the analogous guiding principles of *Stanley* v. *Powell* (Chase's Cases on Torts, at p. 130).

I am a student of American law, and an occasional reader of your very interesting Journal. I wish to take this opportunity to commend the editors for the interesting and educational merits presented by them to the legal professions both in England and to others in different countries who are fortunate enough to secure copies of THE SOLICITORS' JOURNAL.

Yours for an international circulation,

57, Manhattan Av., Brooklyn, New York City, 9th June. LOUIS NUSSBAUM.

[We do not, of course, claim dogmatic authority on American law. Nevertheless, the Massachusetts case cited above appears to be sharply distinguishable from *Stanley* v. *Powell* in that Kendall, the defendant, was protecting his property, and doing so in a sudden emergency. These two factors, neither of which applied to the English case, might serve as excuse for injuries caused by acts which might otherwise be unlawful, or, although lawful, would render the person doing them liable for the consequences if injury resulted. In the American and English Encyclopædia of Law, vol. XXI, p. 461, American as well as English authority is cited for the proposition that "there may be negligence if the thing done is inherently dangerous, although the act be performed with the greatest care." The act of shooting off a gun is certainly in this category. We have, nevertheless, to thank our correspondent for his interesting criticism. Possibly he or someone else may be able to cite a case in which *Stanley* v. *Powell* has been judicially approved or disapproved, either within the United States or the British Empire.—ED., *Sol. J.*]

The Specials.

Sir,—From a sick bed I have read the article in the current SOLICITORS' JOURNAL, and I should like to say that I was a special constable about forty years ago, on the occasion of an Irish outbreak, and I could give some interesting details in that connection. The particular information you ask for is as to staves.

I still have the stave that was handed to me, and also the armlet. I cannot say, without reference, whether the former is of the old pattern or not, known as thumb screws, a source of danger if your adversary got hold of your stave whilst you held it.

My father, when a young solicitor, was a special constable during the Chartist Riots, and on a memorable occasion was with his company held in reserve within the Bank of England. If you care to hear further from me, kindly let me know.

London, 16th June. I. HUGH HOWARD.

[We are very grateful to Mr. Howard and to other correspondents for their interesting communications about the "Specials." Further information will be welcomed.—ED., *Sol. J.*]

Landlord and Tenant Notebook.

Sir,—After carefully reading several times the letter of your correspondent in answer to mine in your issue of the 22nd May, I am at a loss to understand his reasoning.

He stated some months ago that a statutory tenant cannot sub-let even part of the premises held by him as such. I expressed a contrary opinion, and as he seemed to have no better argument in defence, he accused me of "begging the question." When the case of *Campbell* v. *Lill* was reported, I claimed that it bore out my contention that it is incorrect to say a statutory tenant cannot sub-let.

Your correspondent now says that in the case referred to "there was no question as to whether a statutory tenant has the right or the power to sub-let," and that the only thing it decided was that no order for possession could be made against him if he did so. I cannot conceive how this can fail to be taken as a contradiction of your correspondent's original contention, and it appears to me that it would have been far better for him to have admitted fairly that he had made a mistake. Instead, he tries to confuse the issue, and, if I may borrow his words, to beg the question, by saying the case has nothing to do with the question whether a good title is conferred on the person to whom the part has been sub-let as against the original landlord, a point that was never discussed or referred to in the previous correspondence.

London, 31st May. REGINALD G. DAVIS.

Sir,—I very much regret that I cannot see eye to eye with your correspondent. I can only repeat what I have said before, that *Campbell* v. *Lill* is merely authority for the proposition that no order for possession can be made against a statutory tenant merely by reason of the fact that he has sub-let a *part* of the premises. From this your correspondent draws the conclusion that a statutory tenant "*can*" sub-let, because in the case in question the statutory tenant had in fact sub-let. It appears to me that your correspondent is committing a fallacy which may be illustrated in this way. Take the case where a person assigns in breach of covenant. In a sense it may be true to say that a person "can" assign in breach of covenant, but that does not mean that if he does so he will be immune from the penalties which the law will attach to the breach. So it may be said in a sense that a statutory tenant "can" sub-let, but in my submission the law does not vest him with any power or right to do so, and, if in fact he does sub-let, in my submission he confers no right or interest of any sort whatever on his sub-tenant. The court in *Campbell* v. *Lill* clearly pointed out that they "were not considering what would have been the position of the defendant if the landlord had brought the action against the sub-tenant." I am afraid I cannot make myself any clearer on the point.

YOUR CONTRIBUTOR.

[All who are not in the highest degree familiar with the intricacies and technicalities of the Rent Acts must naturally express themselves with reluctance and caution upon any question arising thereon. Bearing this in mind, we may state that it seems to us that as far as they have gone, both our correspondent and our contributor have authority behind them. On the one hand, *Campbell* v. *Lill* apparently lays down definitely that if a statutory tenant lets a part of the premises, no order for possession will be made against him except on one or more of the grounds contained in the Rent Restrictions Act, 1923. Now, it may be argued, and forcibly, though not conclusively, from this that by refusing such an order the court recognizes the statutory tenant's right to assign a part of the premises. On the other hand it must be admitted that a right to assign involves, as a necessary consequence, the transference of a good title to the assignee. Whether or not an assignment of a part of the premises by the statutory tenant does transfer a good title to the assignee against the head landlord seems to be an open point, and our contributor's contention is that the answer is in the negative.—ED., *Sol. J.*]

Reviews.

A new series of League of Nations publications has been issued under the auspices of the Committee of Experts for the Progressive Codification of International Law, consisting of a series of seven questionnaires, dealing with nationality, territorial waters, diplomatic privileges and immunities, responsibility of states for damage done in their territories to the person or property of foreigners, procedure of international conferences and procedure for the conclusion and drafting of treaties, piracy, and exploitation of the products of the sea; there are also three reports of the committee dealing with the criminal competency of states in respect of offences committed outside their territory, extradition, and the legal status of government ships employed in commerce.

The prices of the various items are from 2d. to 1s. 6d. each, and the publishers are Messrs. Constable & Co.

Kime's International Law Directory for 1926. A selected list of trustworthy Legal Practitioners in most of the Principal Towns throughout the civilized world, with telegraphic code and appendix containing general legal information. Edited and compiled by PHILIP W. T. KIME. Thirty-fourth year. Crown 8vo. xiii and 646 pp. Butterworth & Co., Bell-yard; Kime's International Law Directory, 88/90 Chancery-lane. 21s. net.

This well-known directory gives in a useful form the names and addresses of known legal practitioners in practically every town of importance in the five Continents. In addition to this it contains much valuable information relating to (i) the enforcement of foreign judgments in different parts of the world, (ii) Powers of Attorney and other documents for use abroad and in this country; (iii) The formation of companies; (iv) Marriage and Patent Laws; (v) Commercial Arbitrations, etc., etc. It has been very carefully compiled and is certainly a book to which all practitioners should have access.

W. P. H.

A Digest of Law and Arbitration Cases. Including Acquisition of Lands Act, Lands Clauses Acts, Commission, Compensation, Ancient Lights, Landlord and Tenant Licensing, Housing and Town Planning, Rating Cases, Disputes arising under the Agricultural Holdings Acts, the Finance Acts, Auction Law, Manorial Rights, Increase of Rent Restriction Acts, Possession Cases, and the London Building Acts, &c., &c., reported from 1st January to 31st December, 1925. By "A BARRISTER-AT-LAW." Demy 8vo: lx and 447 pp. The Estates Gazette Ltd.

This useful and handy volume contains a comprehensive Digest of Cases of supreme importance to auctioneers and surveyors, covering a wide range of subjects. The salient points are carefully brought out and special attention has been paid to cases arising under the Acquisition of Land Act. The work should be of the greatest assistance to all connected with the combined professions as a reliable medium for consultation and reference. W. P. H.

Incapacity or Disablement in its Medical Aspects. E. M. BROCKBANK, M.B.E., M.D., F.R.C.P. (Honorary Physician, Royal Infirmary, Manchester). Demy 8vo: 120 pp. (with Index): H. K. Lewis & Co., London. 7s. 6d. net.

It is part of the every day work of National Health Insurance practitioners to examine persons of both sexes and all ages and report on their fitness for employment. Legal proceedings under the Workmen's Compensation or the Employer's Liability Acts when a claim is made for disablement or death which it is contended was caused by accident at work are frequently involved, and as a guide to legal and medical men engaged in such work this lucid explanation of the subject should prove invaluable. W. P. H.

LAW OF PROPERTY ACTS.

POINTS IN PRACTICE.

Questions from Annual Subscribers are invited and will be answered by an eminent Conveyancer. All questions should be addressed to—The Assistant Editor, "The Solicitors' Journal," 94-97, Fetter Lane, E.C.4. The name and address of the Subscriber must accompany all communications, which should be typewritten (or written) on one side of the paper only and be in triplicate. To meet the convenience of Subscribers, in matters requiring urgent attention, answers will be forwarded by post.

APPORTIONMENT OF RENTS BEFORE 1926—MUTUAL CROSS-COVENANTS—REGISTRATION UNDER L.C.A., 1925.

361. *Q.* Referring to q. 290, on p. 631 of vol. 70, what is the position as regards registration under the L.C.A., 1925, where a conveyance was made *prior* to the Act containing the customary mutual cross-covenants to secure the respective parts of the rent and the usual mutual charges in respect of any moneys payable under such covenants, and *after* the Act the purchaser under such conveyance conveys his part of the property, together with the benefit of the covenants and charges, to a purchaser from him? Is it necessary for the purchaser who *after* the Act took the express benefit of the covenants and charges conferred *before* the Act to register a land charge, Class C, as a general equitable charge? If so, there seems to be a practical difficulty, since the registration is against an individual and not as against the property, and if the original conveyance was dated some years prior to the Act registration against the original vendor might not be effective, since the property retained by the original vendor might have been conveyed by him in the meantime in various portions to a number of persons unknown to the purchaser, who purchased from the original purchaser?

A. The L.C.A., 1925, s. 10 (1), Class C, provides that a general equitable charge made before 1925 is registrable if acquired under a conveyance made after 1925. The registration under s-s. (2) would be against the estate owner creating the charge. It is a purchaser's duty to search under the name of every owner appearing in the abstract of his vendor's title, though where an official certificate is produced of search made on the last purchase for value it will only be necessary to search for any charges other than those, if any, mentioned in the certificate, registered *subsequent* to the date of such certificate. Possible subsequent registrations under Class C or s-s. (7) may therefore perhaps make the usual assumption a dangerous one. In respect of cross-charges by way of indemnity on apportionment of rents, however, the matter is concluded by the "minor amendment" to s. 10 (1), Class C (iii), in the Schedule to the L.P. (Am.) A., 1926, to the effect that these charges are not registrable. The Legislature has thus taken the view of the inconvenience of requiring such registration pointed out in "A Conveyancer's Diary," p. 577, *ante*.

SETTLED LAND—APPOINTMENT OF ADDITIONAL TRUSTEE—VESTING DEED.

362. *Q.* A is the present tenant for life of a re-settlement of real property, dated the 20th July, 1909, and A and B are the present trustees of it. The re-settlement includes (*a*) so much of the settled land as has not been sold, (*b*) ground rents purchased out of the proceeds of such sales, and (*c*) investments (including mortgages) representing the balance of such proceeds, and a vesting deed in favour of A is about to be executed. The power to appoint new trustees of the re-settlement is vested in A, and he desires to appoint an additional trustee. Should such an appointment be dated prior to the vesting deed, or be subsequent to it, and on what grounds should a decision depend?

A. The opinion is here given, for the reasons set forth in the answers to q. 269, p. 600, *ante* (see also qq. 297 and 299, pp. 632-3) that the first suggested course is preferable.

UNDIVIDED SHARES—SALE TO ONE—METHOD OF VESTING PROPERTY.

363. *Q.* A testator who died in February last, appointed A sole executrix of his Will (by whom it has been proved) and, *inter alia*, desired that his leasehold house situate in Middlesex should be sold, and the net proceeds divided between A and her sister B. A has arranged with B to purchase from her her share in the proceeds of sale.

(1) Should this arrangement be carried out by (i) an assignment by B to A of her interest in the proceeds of sale, and (ii) an assent by A to the vesting of the whole property in herself, the form in L.P.A., 1925, Sched. 5, No. 8, being used without referring to the Assignment?

(2) Should such assent as well as the probate be registered in the Land Registry Middlesex Deeds Department, although it would not appear to transfer or create a legal estate within the meaning of the L.P.A., 1925, s. 11?

(3) It would appear that the assignment should be abstracted on the first dealing by A with the property, but that in subsequent transactions the abstract of title would omit it.

A. (1) The arrangement between A and B depends on the executrix as such being able to assent to the devise, and the assent will operate to vest the property in A as trustee for sale. If B then assigns her interest in the proceeds of sale to A, A will be sole trustee for sale and sole beneficial owner, and the situation will be that dealt with in the answer to q. 244, p. 541 to which the questioner is referred.

(2) Any conveyance of an interest in land (but not of an interest in the proceeds of sale of land) can be registered in the Middlesex Registry, although not a deed; see *Neve* v. *Pennell*, 1863, 33 L.J. Ch. 19. Therefore the opinion is here given that an assent which operates to transfer a legal estate is registrable. Though registrable, however, there is nothing to be gained by registration, for the doctrine of notice applies: see *Le Neve* v. *Le Neve*, 1748, 3 Atk. 646, p. 651, and registration of the probate gives a purchaser full notice of a devisee's rights. The right place to register the assent is on the probate itself under the A.E.A., 1925, s. 36 (5), which precludes sale by the executor, as such, see s-s. (7). In the above case, however, where the executrix is also the sole beneficiary, registration in Middlesex is obviously superfluous, and endorsement of the assent on the probate hardly even seems necessary.

(3) The assignment should be abstracted to show that the vendor was in a position to put an end to the trust for sale, in manner indicated in the answer to q. 244. It thus appears to be a document which should be contained in any future abstract. It may be noted that the above case is not affected by the addition to the L.P.A., 1925, s. 36 (2) made in the Schedule to the L.P.(Am.)A., 1926.

STATUTORY DECLARATION AGAINST INCUMBRANCES—MORTGAGE—DESIRABILITY OF TAKING.

364. *Q.* We act as solicitors to a company, who, since the 1st of January last, have made a practice when advancing money on the security of property to obtain from the borrower a declaration against incumbrances. We recently asked whether the company desired us to obtain this declaration (copy herewith) in all cases in addition to making the usual searches including local searches. The Company inform us

that some of their solicitors have asked definitely for its use to be continued, as they consider it is desirable from the company's point of view. It had seemed to us that to make the usual searches would be a satisfactory protection to the company, and that the declaration would be superfluous. Your opinion as to the necessity or desirability of the declaration in the circumstances would be appreciated.

A. The declaration suggested can make little or no difference in the civil courts. The mortgage deed would show the debt and security and the mortgagor would be fully bound. Its possible use would be to provide a remedy against fraud under the criminal law, a wilfully false declaration made under the Statutory Declarations Act, 1835, being punishable under the Perjury Act, 1911, s. 5. And (for what a conveyancer's opinion on this point may be worth) it might be evidence in such case on a prosecution for obtaining money by false pretences. Perhaps (though it is not necessary to give an opinion on the point) the combined effect of the L.P.A., 1925, s. 2 (5), the L.C.A., 1925, and the L.P.(Am.)A., 1926, schedule, amending the L.P.A., 1925, 1st Sch., Pt. II, para. 3, would preclude any incumbrance affecting a purchaser without notice, but there might be other matters in the declaration, such as the non-existence of any previous bankruptcy or a similar matter affecting credit, which would enable a dishonest or insolvent person to obtain a loan which otherwise would be withheld from him.

OUTSTANDING LEGAL ESTATE—TRUSTEES FOR SALE—VESTING.

365. *Q.* A executed a voluntary settlement in 1845 conveying freehold land in fee simple to X and Y (trustees) upon trust to pay the rents to B during his life and from and after B's death upon further trust that X and Y and the survivor of them and the heirs or assigns of such survivor should stand seised of the hereditaments in trust for all and every the child and children of B if more than one as tenants in common and their respective heirs and assigns. The trustees were by the settlement given power to sell or lease for building purposes reserving the most improved yearly rent, but there is no trust or power in the settlement to sell for a gross sum.

The settlement contains certain powers of appointing new trustees, including a power for the life tenant B to, appoint new trustees to take the places of, *inter alia*, deceased trustees and provides that on an appointment the land should be conveyed so as to vest in the new trustees.

B, the life tenant, had nine children of whom six all of age are now living, including C, his eldest son. One child, D, died an infant in the lifetime of B, and presumably D at birth took a share which passed to B as the heir-at-law, another child, E, died intestate a bachelor of full age after B's death, and apparently E's share passed to the eldest son C as heir-at-law, and another child, F, died of full age after B's death, leaving all his estate by his will to his wife, who presumably took F's share.

B, the life tenant, died in 1904 intestate, and it is presumed that D's share then passed to the eldest son, C and that consequently C is beneficially entitled to three ninth shares in the property, each of the five other children of B now living to one ninth share and the widow of F also to one ninth share.

X died on 19th October, 1852, and Y on 7th September, 1877, and by a deed of 24th April, 1903, B appointed new trustees in their places, namely, his eldest son C (still living) and another son, F (now deceased), and conveyed the land to them instead of vesting the legal estate in them by a vesting declaration so that apparently the legal estate did not pass to C and F, but was left outstanding in the devisee or heir-at-law of Y. The rents were received by B during his lifetime and since B's death have been received by the surviving children and widow of F.

It is now desired to sell part of the land for a gross sum, and the question arises as to what is required to be done to give a title to a purchaser. There are no incumbrances affecting the land or any share therein. Prior to the L.P.A., 1925, the parties beneficially entitled could no doubt have given a title subject, of course, to an appropriate condition to cover the outstanding legal estate, but this cannot now be done since there are more than four tenants in common. There is only one trustee surviving, and such trustee apparently has not the legal estate vested in him, and it is suggested that in the circumstances the entirety of the land is not vested in trustees or personal representatives in trust for the persons beneficially entitled, and that consequently para. 1 (1) of Pt. IV of the 1st Sched. to the Act is not applicable, and further, s.-para. (3) also does not seem applicable since it is submitted that the land ceased to be settled land on the death of B.

Is the land in the circumstances stated now vested in the Public Trustee under s.-para. (4) of para. 1 of Pt. IV of the 1st Sched. to the Act, and if so can the parties beneficially interested in the land, notwithstanding that they have not the legal estate appoint, say, three new trustees in his place and vest the land in the persons so appointed upon the statutory trusts? If so, is there any objection to the new trustees so appointed being C (the surviving trustee appointed by the deed of 1903) and two others also children of B?

If on the other hand the case does not come within s.-para. (4) of para. 1 of Pt. IV of the 1st Sched., who has the legal estate in the property, and what steps should be taken to make title?

A. The land is "land held in equity in undivided shares vested in possession," and therefore, by virtue of the L.P.A., 1925, Pt. IV, para. 1, made subject to a trust for sale. By Pt. II, para. 6 (*b*), the legal estate vests in the persons who are trustees for sale "by virtue of this Act." Y's heir or devisee on 31st December, 1925, was not a trustee of the settlement, but only a person with an outstanding legal estate, and with the duty of conveying it to C as trustee of the settlement (it is to be noted that, since C was trustee, Y's heir or devisee had not even the powers conferred by s. 8 (1) of the Conveyancing Act, 1911, as amended retrospectively by the T.A., 1925, 1st Sched., para. (4)). C was trustee with an equitable estate, but had responsible powers and duties. It is perhaps not quite easy to dovetail the paragraphs quoted above and apply them to the circumstances, but the opinion is here given that Pt. II, para. 6 (*b*) divested Y's heir or devisee in favour of C as trustee for sale "by virtue of this Act," and, the equitable interest in the entirety being vested in C on 31st December, 1925 (and necessarily so for the purposes of his powers and trusts), para. 1 (1) of Pt. IV applies rather than 1 (4). If so, the property has vested, in C upon trust for sale—with, of course, the need for him to appoint a new trustee to give a receipt when sale takes place.

If the reasoning above is doubted it would be easy for the persons entitled to more than half the shares to appoint C and another as trustees for sale to oust the Public Trustee under para. 1 (4) (iii). For the reasons given on p. 620, *ante*, the opinion is given that C can appoint himself, and if C appoints "by virtue of all powers him thereunto enabling," both sub-paragraphs will be satisfied and title can be made under either.

CONVEYANCE ON SALE—SUB-PURCHASE.

366. *Q.* A owns a plot of freehold land and has an understanding (not in writing) with B that he will sell him plots of the land at an agreed price per square yard. B, with A's knowledge and permission (but without having taken a conveyance from A), erected a house on one of the plots and agrees to sell the house and land for £1,200 to C. It would not seem to be correct to adopt the usual recital of seisin, and say that A is the estate owner of the land *and* house in fee simple for his own use and benefit, free from incumbrances, and it would seem equally incorrect to say that B is the estate owner of the house only. How should the conveyance to C be carried out, and who will be the parties, and in what capacity will they join?

A. This appears to be in effect the usual case of purchaser and sub-purchaser, and the precedents in the collections should be applicable without much modification. The recital of A's legal seisin of the premises will be perfectly accurate, followed by another that in consideration of the erection of the house (which is ample part performance of the parol agreement) and of the agreed price, A has agreed to sell to B. There will then be the recital that B has agreed to sell his interest to C and the conveyance to C at B's request will follow the ordinary form. The recital that a vendor is seised in fee simple free from incumbrances, and has agreed to sell, is in effect a recital that the vendor is so seised, subject to the equitable right of the purchaser to enforce specific performance, and there is therefore nothing misleading or untrue about it. Subject to that right, the house, built on A's freehold, belongs to him.

[We much regret that the publication of a number of replies to "Points in Practice" has been unavoidably held over until next week, though the answers have in many cases been forwarded by post.—Ed., *Sol. J.*]

Obituary.

Sir EDWARD BRAY.

The death occurred on Saturday last, at his residence, 26, Queen's Gate Gardens, of Sir Edward Bray, County Court Judge, at the age of seventy-six. The last of the County Court Judges to be nominated by the late Lord Halsbury, he was the second son of Mr. Reginald Bray, J.P., F.S.A., of Shere, near Guildford, was born on 19th August, 1849, and was a younger brother of the late Sir Reginald Bray, a Judge of the King's Bench Division for many years, who died in 1923.

Sir Edward was educated at Westminster School (of which he was Captain) and Trinity College, Cambridge, where he graduated in 1873, and was called to the Bar by Lincoln's Inn in 1875, going the South Eastern Circuit. Of a quiet and retiring disposition, he never had a very large practice, though he was recognized as a learned and careful lawyer, his work on "Discovery"—published in 1884—proving this beyond all doubt. His first appointment was to the Birmingham County Court, where he remained until 1908, when he was transferred to London as the Additional Judge to sit when required in either of the Metropolitan Courts. In 1911 he was appointed to Bloomsbury, and seven years later the Court at Brentford was added to his duties, and he sat later also at Uxbridge, Dorking, and Redhill. He was a most capable and industrious judge, possessed of shrewd common sense—invaluable on the County Court Bench. He was Chairman of the County Courts Rules Committee and Secretary to the Council of County Court Judges, and was knighted in 1919. He was a keen cricketer and tennis player, and a good shot, and was gifted with a very fine tenor voice. His death is a distinct loss to the legal profession and will be deplored by a large circle of friends. He leaves three sons and one daughter surviving.

Tributes to his high reputation as a Judge and to his sterling qualities as a man were made by Judge Harrington, Judge Sir Thomas Granger, Judge Scully and Deputy-Judge C. Dyer, K.C., at the County Courts of Wandsworth, Southwark, Marylebone, and Bloomsbury on Monday last.

Mr. C. A. RUSSELL, K.C.

The death occurred on Monday last, after only a short illness, of Mr. Charles Alfred Russell, K.C., LL.B. The second son of His Honour Judge Russell, he was educated at University College School and University College, London, called to the Bar at Gray's Inn, in 1878, became a Bencher in 1894, and took silk in 1896. Mr. Russell married in 1892, Amy, daughter of the late Mr. J. S. Westmacott, of Clapham.

Mr. S. N. BRAITHWAITE.

Mr. Stephen Nelson Braithwaite, solicitor, a member of the firm of Travers-Smith, Braithwaite & Co., of 4, Throgmorton Avenue, E.C.2, died in London on the 24th ult., aged seventy-six. Mr. Braithwaite, who was admitted in 1872, took first-class Honours, and was awarded the Brodrip Gold Medal. In 1881 he was Legal Adviser to the English Representative on the International Commission for the Settlement of the Ottoman Debt at Constantinople, and in 1887 was joint Commissioner with The Right Hon. Sir Edward Thornton, K.C.B., on the Commission to the U.S.A. for the Settlement of the Debt of the State of Virginia. He was Solicitor to the Committee for the Stock Exchange (London), to the Westminster Bank, Ltd., and to the Council of Foreign Bondholders.

Mr. A. C. BROWN.

Mr. Alfred Charles Brown, solicitor, senior member of the firm of Messrs. Brown & Brown, of 127, High Street, Deal, died there on the 21st ult., aged seventy-two. Mr. Brown was appointed Clerk of the Peace for the Borough of Deal in 1890 and Town Clerk of the same borough in 1891, holding both offices until his retirement in 1920, when he was presented with the freedom of the borough.

Mr. A. O. HEDLEY, J.P.

Mr. Alfred Octavius Hedley, solicitor, who had practised continually in Sunderland for over forty years and who died recently at his residence there in his sixty-sixth year, was a member of the well-known firm of Messrs. Hedley & Thompson, of 11, Park Terrace. He was Vice-President of the Sunderland Law Society in 1900 and President in 1912; for three years he was a member of the Sunderland Town Council, and on one occasion unsuccessfully contested one of the Sunderland seats on the Durham County Council.

Mr. H. N. M. DONNITHORNE, B.A. (Oxon.).

Mr. Hugh Nicholas Mortimer Donnithorne, solicitor, of Fareham (Hants), died there on the 4th inst. at the early age of fifty-two. Educated at Marlborough and at Hertford College, Oxford, Mr. Donnithorne was admitted in 1900 and practised at Fareham. He held some important public appointments, including that of Clerk to the Justices for the Fareham Division, Clerk to the Commissioners of Taxes, Clerk to the Fareham Old Age Pensions Sub-Committee, and Deputy Coroner for the Fareham District of Hampshire. He was well known and much esteemed throughout the county and was a member of The Law Society, The Solicitors' Benevolent Association, and of the Incorporated Justices' Clerks' Society.

Mr. A. E. SMITH.

Mr. Albert Edwin Smith, solicitor, who practised for some years at 21, Queen Street, Oldham died at his residence there on the 7th inst. He was appointed Coroner for that county borough in 1916, and held the appointment up to the time of his death. He was admitted in 1890 and had worked hard and acquired a substantial practice. Mr. Smith acted as honorary solicitor to the local branch of the National Society for the Prevention of Cruelty to Children, in the work of which he always evinced a deep practical interest.

Mr. J. E. BOWEN.

Mr. John Evan Bowen, solicitor, who will be remembered as Senior Assistant Solicitor to the Great Western Railway, died recently at the age of seventy. Mr. Bowen, who was admitted in 1877, was appointed an Assistant Solicitor to the London and South Western Railway, remaining with that company until 1884 when he joined the legal department of the Great Western Railway, from which he retired in 1919, after thirty-five years' service. At a farewell dinner given in his honour in January of that year by the solicitors of practically all the railways of England and Wales he was presented with a silver loving cup bearing the arms of the Great Western and London and South Western Railways.

MR. POWER LE POER TRENCH.

Mr. Power Mash le Poer Trench, barrister-at-law, died on Monday, the 14th inst., at his residence, St. Hubert's, Gerrards Cross, Bucks, at the age of fifty-six. A grandson of the fourth Earl of Clancarty, he was educated at Eton and at Trinity Hall, Cambridge, and was called to the Bar in 1893. He was twice married, his second wife being a daughter of Mr. Henry Saxe Wyndham, Secretary of the Guildhall School of Music.

MR. JOHN LANIGAN.

Mr. John Lanigan, solicitor, Kilkenny, died suddenly at Manchester, on Wednesday, the 16th inst. Mr. Lanigan, who had practised in Kilkenny for many years, was admitted in 1901.

House of Lords.

R. E. Jones, Ltd. *v.* Waring & Gillow, Ltd. 18th June.

MISTAKE OF FACT—CHEQUE PAID THROUGH FRAUD OF THIRD PARTY—RECOVERY FROM PAYEE—AVAILABLE MEANS OF KNOWLEDGE—WHICH OF TWO INNOCENT PARTIES TO SUFFER.

Money paid by mistake as the result of fraud by a third party can be recovered by the payor from the payee even after the latter has given credit for the money to the fraudulent third party. It is immaterial in such a case that the payor had the means of knowledge and did not avail himself of it.

Kelly *v.* Solari, 9 M. & W. 58, *followed.*

This was an appeal from a decision of the Court of Appeal (69 SOL. J. 395), reversing a judgment of Lord Darling. A man named Bodenham obtained from Waring & Gillow furniture and goods on the terms of a hire-purchase agreement under which he was to pay a deposit of £5,000. He gave his cheque for the amount which was dishonoured. He then saw R. E. Jones, Limited, and told them that he represented a firm bearing the name of International Motors, who had the control of a car called the "Roma," and offered to appoint R. E. Jones, Limited, agents for the sale of the cars upon the terms that they should purchase 500 cars and deposit £5,000. They demurred to paying the sum to Bodenham, but on being told by him that Waring & Gillow were financing the venture and that the deposit might be paid to them they signed the agreement and handed to Bodenham two cheques for £2,000 and £3,000, which he handed to Waring & Gillow as a payment of his deposit of £5,000 under the hire-purchase agreement. The cheques were not quite in order and it was arranged that they should be returned and a fresh cheque for £5,000 should be sent to Waring & Gillow, which was accordingly done. Subsequently the whole fraud was exposed and it appeared that there was no firm called International Motors, and no "Roma" car. Thereupon this action was brought claiming repayment of the £5,000 and Lord Darling gave judgment for the plaintiffs, but on appeal the judgment was set aside and judgment given for the defendants. The plaintiffs appealed to this House.

The LORD CHANCELLOR, after stating the facts and reviewing the authorities, said: In these circumstances, it was argued, the doctrine of estoppel applied, and the appellants were prevented by their own conduct, on which the respondents acted to their disadvantage, from claiming repayment of the £5,000. There was a great body of authority in favour of the view that where a person to whom money had been paid by mistake had been misled by the payor's conduct and on the faith of that conduct had acted to his own detriment, the payor could not in law insist on repayment. The general rule as laid down in those authorities appeared to him to be sufficient to determine this case. Upon the whole, he had come to the conclusion that on the ground of estoppel the respondents were entitled to succeed and the appeal should be dismissed.

Lord ATKINSON concurred.

Lord SHAW was of opinion that the appeal should succeed and that the demand of the appellants for repayment should be granted. *Watson* v. *Russell*, 5 B. & S. 963 was much relied on in the Court of Appeal, but it had not any real bearing upon cases depending upon payments made under a mistake of fact. It was important to note exactly the principle of cases of refunding on account of mistake of fact as that principle was authoritatively expounded by Baron Parke in *Kelly* v. *Solari*, 9 M. & W. 58. The facts of the present case appeared exactly to meet all the requirements of the principle there set forth. It was quite true that various attempts had been made, not to attack the rule laid down by Baron Parke, but to set up a species of estoppel by reason of the carelessness of the person who was misled into the mistake of fact. He was not aware that in the whole course of the decisions such an assault upon *Solari's Case* had ever been successful, and since its date in 1851 it had, he believed, remained of paramount authority as part of the Law of England.

Lord SUMNER and Lord CARSON delivered concurring judgments, allowing the appeal.

COUNSEL: *Alexander Grant*, K.C.; *Eustace Hills*, K.C., and *Morle*; *Jowitt*, K.C., and *A. E. Woodgate*.

SOLICITORS: *T. D. Jones & Co.*, for *Edward Harris*, Swansea; *Finch, Jennings & Tree*.

[Reported by S. E. WILLIAMS, Esq., Barrister-at-Law.]

Court of Appeal.

Falcon *v.* Famous Players Film Co. Limited and Others.

9th and 10th June.

COPYRIGHT—DRAMATIC WORK—AUTHOR A NON-RESIDENT ALIEN—FIRST PERFORMANCE IN THIS COUNTRY—EVIDENCE—ENTRY AT STATIONERS' HALL—INACCURACY—OTHER EVIDENCE—ADMISSION BY AUTHOR'S AGENT—ASSIGNMENT OF PERFORMING RIGHTS—CINEMATOGRAPH RIGHTS—INFRINGEMENT BY EXHIBITION—COPYRIGHT ACT, 1911, 1 & 2 Geo. 5, c. 46, ss. 1, 2, 24 and Sched. 1.

A non-resident alien can, under the Dramatic Copyright Act, 1833, *acquire copyright in a dramatic work, provided that the dramatic work was first performed in this country. An entry on the register of first performances of dramatic works at Stationers' Hall is* prima facie *evidence of the fact of first performance and of the ownership of, and of the right of performance in this country of the dramatic work. But if the entry is incorrect, a certified copy thereof cannot be relied on as evidence of first performance, although the court may rely on the certificate as corroborative of other evidence, such as, e.g., an admission by the agent of the author made shortly after the assignment of the performing rights to the plaintiff that the play was first performed in this country.*

Where the plaintiff, before the Copyright Act, 1911, *possessed the sole right to perform or to authorize the performance of a dramatic work in this country, he, by virtue of ss.* 1 *and* 24 *and the* 1*st Sched. to the Copyright Act*, 1911, *acquired the sole right to perform the work in public and his rights were infringed by the importation into this country and the exhibition in this country of a film of the play.*

Decision of McCardie, J., 1926, 1 K.B. 393, *affirmed.*

Appeal from McCardie, J., 1926, 1 K.B. 393. The plaintiff, as assignee of the author, brought an action for an injunction to restrain the defendants from infringing his copyright in a dramatic work entitled "Held by the Enemy." The plaintiff claimed the performing rights and the sole right of representation and performance of the play in Great Britain and Ireland.

In 1885, Mr. William Gillette, a well-known actor and dramatic author in the United States, wrote the play "Held by the Enemy." It was a play based on the American Civil War and contained much vivid interest and dialogue. In 1898 and onwards until 1916, Mr. Charles Frohman and Mr. Lestocq acted as the agents in this country for Mr. Gillette. In 1898, negotiations took place between them (acting for Mr. Gillette) and the plaintiff for the acquisition by the plaintiff of the performing rights in "Held by the Enemy" for Great Britain and Ireland. Mr. Gillette himself also saw the plaintiff and actively engaged in the negotiations. As a result a written agreement was entered into between Mr. Gillette and the plaintiff, dated 30th June, 1898, and signed by both parties. The agreement recited that Mr. Gillette was the "author and the sole proprietor of the right of performing the play entitled 'Held by the Enemy.' The agreement provided that for the sum of £150, Mr. Gillette granted to the plaintiff "the sole and exclusive right to perform or have performed the said play 'Held by the Enemy' in Great Britain and Ireland." There was one reservation, namely, a right for Mr. Gillette to perform (without payment) the play at a West End theatre, provided he played in it himself. On 30th June, 1898, Mr. Lestocq, the agent of Mr. Gillette, wrote to the plaintiff: "You now have the rights for Great Britain and Ireland." On 2nd July he again wrote to the plaintiff as follows: "Agreement duly signed to hand, for which thanks. I have asked Mr. Gillette to supply me either now or on his return to America, with the date of the first performance of this play in America, on receipt of which from him I will then search at Stationers' Hall and supply you with the date of its first performance in this country." On 22nd September Mr. Lestocq (the agent of Mr. Gillette) wrote again to the plaintiff: "I have this morning heard from Mr. Gillette, who informs me that 'Held by the Enemy' was played in this country at the Ladbroke Hall, Notting Hill, on Saturday, 20th February, 1886, and in America on Monday, 22nd February, 1886; therefore you will see the copyright is clear." In March, 1887, a certificate was issued under the Copyright Act, 1842, purporting to show that the play in question was first performed in this country on 20th February, 1886, at Ladbroke Hall, Notting Hill, London. In 1919, Mr. Gillette granted to a series of American companies the sole right of motion pictures for a sum of £4,000, and in purported pursuance of that right the American companies made a film from the play of "Held by the Enemy," imported a copy into England, and by an agreement dated 24th February, 1921, hired out the right to represent it to the proprietor of a cinematograph theatre at Bedford. The agreement provided for permission to exhibit the film for three days at Bedford, namely, 23rd, 24th and 25th February, 1922. A clause in the agreement provided that "The hirer agrees not to purchase posters for the said film from any person or persons or company other than the company and not to use the company's posters for the advertising of any other film." Mr. Justice McCardie held that Mr. Gillette, the author, although a foreigner resident outside this country, could and did acquire within the British Empire dramatic copyright in the play "Held by the Enemy" by its first performance in this country; that the plaintiff had acquired the cinematograph and film rights in that work by the combined effect of s. 1, s-s. (2) (*b*), and ss. 24 and 35 and the 1st Sched. to the Copyright Act, 1911; and that the defendants had infringed the plaintiff's rights. The defendants appealed.

BANKES, L.J., in the course of his judgment, said that as the law was at the date when Mr. Gillette said he acquired the copyright, it was open to him, although he was a non-resident alien, to acquire copyright in a dramatic work, provided that that dramatic work was first published in this country. The plaintiff sought to prove that the play was first performed in this country by a certified copy of an entry in the register of first performances of dramatic works at Stationers' Hall. What that certificate purported to show was that the play was first performed on 20th February, 1886, at the Ladbroke Hall, Notting Hill, London. They said that that certificate was *prima facie* evidence of that fact. That contention was correct. The proprietorship of this copyright as expressed in the certificate included the statement as to the time and place of first representation and performance, because that was an essential part of the title and an essential part of the proprietorship. Therefore the certificate was *prima facie* evidence of the time and place of first representation and performance. But then it was said that the certificate must be read as a whole, and the certificate stated that the play "Held by the Enemy" was a play the name of the author of which was not Mr. William Gillette alone, but Mr. William Gillette and Mr. William Eugene Chapman, and therefore, it was said, assuming that the plaintiff was right about the first performance, he proved himself out of court because the play, the registration of which was relied on, was not identically the play of which Mr. Gillette held the copyright and the sole performing rights of which was granted to the plaintiff. In the absence of other evidence that would be a formidable point. But the other evidence was supplied by the letter of 22nd September, 1898. The agreement under which Mr. Gillette assigned the sole right of performance to the plaintiff was dated 30th June, 1898, and the correspondence which followed indicated that that agreement was subject to the plaintiff being satisfied that the assignor had the right which he purported by that agreement to assign. The letter of 22nd September, 1898, was written by Mr. Gillette's agent to the plaintiff and it stated that "Held by the Enemy" was played in this country at the Ladbroke Hall, Notting Hill, on Saturday, 20th February, 1886. That letter, read with the certificate, made it perfectly plain that although the certificate included Mr. Chapman's name, the play was the same play. That letter was admissible as an admission affecting property by a predecessor in title of the parties within the meaning of the rule stated in Wills' book on evidence. Then it was said that whatever rights the plaintiff had before the Copyright Act of 1911, that Act swept them all away. That contention could not be accepted. The plaintiff had before the Act the performing rights in the play, and s. 24 of the Act of 1911 and the 1st Sched. said, in the clearest possible terms, that, having that right, he should, from the date that the Act came into operation, have the substituted right, namely, the sole right to perform the work in public. Finally, it was contended by the defendants that they had not infringed the plaintiff's rights. They made the film; they imported it into this country and they entered into contracts with people to exhibit the film. That was done under an agreement of 24th February, 1921, with the proprietor of a cinematograph theatre at Bedford. Sub-section (2) of s. 1 of the Copyright Act, 1911, defines "copyright," *inter alia*, as being the sole right to produce the work or to authorize the production of the work. By s. 2, s-s. (1): "Copyright in a work shall be deemed to be infringed by any person who, without the consent of the owner of the copyright, does anything the sole right to do which is by this Act conferred on the owner of the copyright." On the construction of the section the defendants had infringed the plaintiff's rights and the appeal must be dismissed.

SCRUTTON, L.J., and ATKIN, L.J., concurred. Appeal dismissed.

COUNSEL: *Maugham*, K.C., *Sir Duncan Kerly*, K.C., *Macgillivray* and *James Mould*; *Upjohn*, K.C., *Merriman*, K.C., and *R. Storry Deans*.

SOLICITORS: *Kerly, Sons & Karuth*; *Stanley, Hedderwick and Co.*

[Reported by T. W. MORGAN, Esq., Barrister-at-Law.]

High Court—Chancery Division.

In Re **Leigh's Settled Estates.** Tomlin, J. 2nd June.

SETTLEMENT—JOINTURE RENT-CHARGE—TRUSTEES FOR SALE SUBJECT TO—COMPOUND SETTLEMENT—PERSON HAVING POWERS OF TENANT FOR LIFE—SETTLED LAND ACT, 1884 (47 & 48 Vict., c. 18), s. 7—EFFECT OF ORDER UNDER—SETTLED LAND ACT, 1925 (15 Geo. 5, c. 18), ss. 1, 19, 20, 117, Sched. II, para. 1—LAW OF PROPERTY ACT, 1925 (15 Geo. 5, c. 20), s. 29, s-s. (4), s. 205, s-s. (1) (xxix).

The expression "an immediate binding trust for sale," in s. 205, s-s. (1) (xxix), of the Law of Property Act, 1925, means that the entire land which is the subject-matter of the settlement is to be subject to the trust for sale, and to be bound by it.

Orders made under s. 7 of the Settled Land Act, 1884, giving a person the power to exercise the powers of a tenant for life, do not alter or affect the right of such person to have a vesting deed executed if otherwise entitled thereto under s. 20, s-s. (1) (viii), of the Settled Land Act, 1925.

Originating summons.

This was a summons asking whether a vesting deed ought to be executed for giving effect to the settlement of the estates dealt with by the testator in his will, subsisting at the commencement of the Settled Land Act, 1925, and whether two orders, made under s. 7 of the Settled Land Act, 1884, giving to Mrs. Tenison power to exercise all the powers of a tenant for life of the settled estates, were still in force under the Law of Property Act, 1925, s. 29, s-s. (4), and whether Mrs. Tenison could continue, under that section, to exercise the powers of a tenant for life, or whether the trustees for sale must exercise them. The facts were as follows: A testator, who died in 1861, by his will, dated the 22nd May, 1860, devised his freehold estates to the use of his son for life, with remainder to the use of the son's first and every other son successively in tail, with remainder to the use of his first and every other daughter successively in tail. In 1921 the son died, having had one son, who died in 1908 at the age of fifteen years, and one daughter, Mrs. Tenison, and having by a deed, dated the 7th January, 1885, exercised a power conferred by the will to appoint a jointure rent-charge of £1,500 per annum to his wife, Mrs. Hanbury, who still lives. In 1923 Mrs. Tenison executed a disentailing deed, and conveyed the settled lands (subject to Mrs. Hanbury's jointure) to trustees upon trust for sale (with power to postpone), and upon trust to stand possessed of the net proceeds of sale and the rents and profits until sale, upon the trusts of a settlement of even date, under which there were payable life annuities of £5,000 to Mrs. Tenison, £1,000 to Mr. Tenison, and £3,500 to Mrs. Hanbury, and the balance payable to Mrs. Tenison during her life.

TOMLIN, J., after stating the facts, said:—It is plain that the testator's will, the disentailing deed, the conveyance on trust for sale, and the settlement of even date, which together comprise the legal estate in fee simple of the settled estates, constitute a compound settlement under the Settled Land Act, 1925, s. 1. Section 20 defines the limited owner who has the powers of a tenant for life, and includes (s-s. (1) (viii)) "a person entitled to the income of land under a trust or direction for payment thereof to him during his own or any other life . . . or until sale of the land, or until forfeiture, cesser or determination by any means of his interest therein unless the land is subject to an immediate binding trust for sale." By s. 117, s-s. (1) (xxx), "trust for sale" is defined as having the same meaning as in the Law of Property Act, 1925, and s. 205, s-s. (1) (xxix) of the latter Act defines "trust for sale" as meaning "an immediate binding trust for sale, whether or not exercisable at the request or with the consent of any person and with or without a power at discretion to postpone the sale." What then is meant by "an immediate binding trust for sale"? An immediate trust for sale is intelligible but some meaning has to be given to "binding." I think that what is meant is that the entire land, which is the subject-matter of the settlement, is to be subject to the trust for sale, and to be bound by it. If so, there is here no "immediate binding trust for sale," because the trust for sale is incapable of binding the prior interest. It follows that the Settled Land Act, 1925, s. 20, s-s. (1) (viii), applies, and that Mrs. Tenison has the powers of a tenant for life, and is *primâ facie* the person in whose power a vesting deed should be executed pursuant to Sched. II, para. 1. Nor do I think that the existence of the orders made under the Settled Land Act, 1884, s. 7, affects the position. They would only have any operation when Mrs. Hanbury's jointure comes to an end, and I see no reason to think that, if then still in force, they would not be exercisable under s. 29 (4) of the Law of Property Act, 1925, in the name of the trustees for sale.

COUNSEL: *Method, Gavin Simonds*, K.C., *Tillard* and *J. V. Nesbitt*.

SOLICITORS: *Foyer, White, Borrett & Black.*

[Reported by L. MORGAN MAY, Esq., Barrister-at-Law.]

High Court—King's Bench Division

Feney *v.* **Gozgoltz.** Mackinnon and Finlay, JJ. 6th May.

LANDLORD AND TENANT—RENT RESTRICTION—DECONTROL—TENANT IN POSSESSION UNDER A LONG LEASE AT A GROUND RENT LESS THAN TWO-THIRDS RATEABLE VALUE—WHETHER LESSEE "LANDLORD"—INCREASE OF RENT AND MORTGAGE INTEREST (RESTRICTIONS) ACT, 1920 (10 & 11 Geo. 5, c. 17), s. 12, s-s. 7—RENT AND MORTGAGE INTEREST RESTRICTIONS ACT, 1923 (13 & 14 Geo. 5, c. 32), s. 2, s-s. 1.

Section 12, s-s. 7, of the Increase of Rent and Mortgage Interest (Restrictions) Act, 1920, enacts: "Where the rent payable in respect of any tenancy of any dwelling-house is less than two-thirds of the rateable value thereof, this Act shall not apply to that rent or tenancy . . . and this Act shall apply in respect of that dwelling-house as if no such tenancy existed or ever had existed."

Section 2, s-s. 1, of the Rent and Mortgage Interest Restrictions Act, 1923, states: "Where the landlord of a dwelling-house to which the principal Act applies is in possession of the whole of the dwelling-house at the passing of this Act, or comes into possession of the whole of the dwelling-house at any time after the passing of this Act, then from and after the passing of this Act, or from and after the date when the landlord subsequently comes into possession, as the case may be, the principal Act shall cease to apply to the dwelling-house: Provided that, where part of a dwelling-house to which the principal Act applies is lawfully sub-let, and that part so sub-let is also a dwelling-house to which the principal Act applies, the principal Act shall not cease to apply to the part so sub-let by reason of the tenant being in or coming into possession of that part, and, if the landlord is in or comes into possession of any part not so sub-let, the principal Act shall cease to apply to that part, notwithstanding that a sub-tenant continues in, or retains, possession of any other part by virtue of the principal Act."

Where a person, at the passing of the Rent Restrictions Act of 1923 or subsequently, is in or afterwards comes into possession of the whole of a dwelling-house to which the Rent Restrictions Act of 1920 applies, under a long lease and at a ground rent of less than two-thirds of the rateable value, he is the "landlord" of the house within the meaning of s. 2, s-s. 1, of the Act of 1923, and any part sub-let by him after the passing of the Act as a separate dwelling-house is decontrolled and not protected by the Rent Restrictions Act.

The opinion of Lord Darling in Jenkinson *v.* Wright, 1924, 2 K.B. 645, *approved and followed.*

Appeal from Bloomsbury County Court. The plaintiff, the tenant, sued the defendant for damages for an illegal

distress and also took out a summons for apportionment of the rent. The principal Act applied to the house of which the defendant was in possession, under a long lease for ninety-nine years which expired in 1940, at a ground rent of £10 a year. In February, 1925, she sub-let an unfurnished room in the house with part use of the scullery to the plaintiff at a weekly rent of 16s. a week. It was admitted that the standard rent of the whole house was £60 a year. After the plaintiff had paid his rent for some time he refused to make further payments at that rate, alleging that it was more than he was liable to pay under the Rent Restrictions Acts. The defendant thereupon levied a distress for the rent in arrear calculated at 16s. a week. The plaintiff sought an injunction, claimed damages for an illegal distress, and took out a summons for an apportionment of the rent. It was admitted on behalf of the defendant that if the plaintiff was entitled to an apportionment, no rent would be owing and that the distress would be illegal. The right of the plaintiff to an apportionment depended on whether the room was decontrolled by virtue of s. 2, s-s. 1, of the Rent and Mortgage Interest Restrictions Act, 1923.

The county court judge held that the proviso to s. 2, s-s. 1, of the Act of 1923 prevented the room from being decontrolled and that the plaintiff was entitled to recover damages for an illegal distress, which were assessed at £3.

MACKINNON, J. The defendant contended that she was the landlord of the premises within the meaning of s. 2, s-s. 1, of the Act of 1923; that at the passing of that Act, she was in possession of the house or came into possession of it after that date; that the principal Act had ceased to apply; and that the tenancy to the plaintiff was therefore unfettered by the Act. It was contended for the plaintiff that the defendant was not the landlord, and that the part sub-let was therefore decontrolled by virtue of the proviso to s. 2, s-s. 1, of the Act of 1923. Now, that proviso contemplated three parties; the head landlord, the tenant and the sub-tenant. It was true that the defendant was not the head landlord to the sub-tenant, because that person was the freeholder entitled in reversion to the premises on the expiration of the defendant's lease. There was no actual definition of landlord in the Act of 1923. See s. 12 (1) (*f*) and (*g*). But the rent paid by the defendant was less than two-thirds of the rateable value, and therefore by s. 12, s-s. 7, of the Act of 1920, although the house came within the operation of that Act, the Act was to apply as if no such tenancy as existed did exist or ever had existed. The defendant must, therefore, be treated as the landlord of the whole house within the meaning of s. 2, s-s. 1, of the Act of 1923, and the proviso to that section had no application to the present case. The existence of the freeholder as original landlord was eliminated by virtue of s. 12, s-s. 7, of the Act of 1920. The premises had become decontrolled and the distress for rent at 16s. a week was justified. See the opinion of Lord Darling in *Jenkinson* v. *Wright* (*supra*), on the position of a tenant holding under a long lease. The appeal must be allowed.

COUNSEL: for the appellants, *R. J. Sutcliffe*; for the respondent, *F. Ritter*.

SOLICITORS: for the appellant, *Harry Chandler*; for the respondent, *Nimmo and Harvey*.

[Reported by COLIN CLAYTON, Esq., Barrister-at-Law.]

Latter *v.* Juckes.

10th and 12th May. Mackinnon and Finlay, JJ.

BANKRUPTCY—EXECUTION FOR MORE THAN TWENTY POUNDS—NOTICE OF A BANKRUPTCY PETITION WITHIN FOURTEEN DAYS—RECEIVING ORDER MADE ON BANKRUPT'S OWN PETITION—NOTICE OF THIS PETITION GIVEN AFTER FOURTEEN DAYS FROM THE EXECUTION—CLAIM BY TRUSTEE IN BANKRUPTCY—"WITHIN FOURTEEN DAYS"—WHETHER TO BE ADDED TO "OR ON ANY OTHER PETITION OF WHICH THE SHERIFF HAS NOTICE"—BANKRUPTCY ACT, 1914, 4 & 5 Geo. V., c. 59, s. 41, s-s. 2.

Section 41, s-s. 2 of the Bankruptcy Act, 1914, enacts: "Where, under an execution in respect of a judgment for a sum exceeding twenty pounds, the goods of a debtor are sold or money is paid in order to avoid sale, the sheriff shall . . . retain the balance for fourteen days, and, if within that time notice is served on him of a bankruptcy petition having been presented by or against the debtor, and a receiving order is made against the debtor thereon or on any other petition of which the sheriff has notice, the sheriff shall pay the balance to . . . the trustee, who shall be entitled to retain it as against the execution creditor."

A sheriff received money from a debtor in respect of an execution in order to avoid a sale. He then received notice within fourteen days of a bankruptcy petition filed against the debtor on which, an adjudication order would have been made, but for the debtor, meanwhile, filing his own petition on which an order was made at once, as a matter of course. The sheriff received notice of this second petition more than fourteen days after the execution, but while the money was still in his hands. The trustee in bankruptcy and the execution creditor both claimed the money.

Held, that the words "within fourteen days" are not to be added to the words of the sub-section "or on any other petition of which the sheriff has notice," and so permit the sheriff to pay money to an execution creditor because notice of the second petition on which the receiving order was made was not given within fourteen days of the execution.

Appeal from Wolverhampton County Court. The defendant, Thomas Charles Juckes, was in financial difficulties, and on 1st May, 1925, a bankruptcy notice was issued out of the above court at the instance of a creditor, A. H. Reeve. On 15th May the notice was served on the defendant, who failed to comply therewith, and an act of bankrutcy was thereby committed on 23rd May, 1925. On 21st May, 1925, Mrs. Helena Kate Latter, having obtained a judgment against the defendant, issued a writ of *fi. fa.* On 27th May the sheriff seized the goods of the defendant, who paid out the execution to avoid a sale. As the result the sheriff, after deducting his costs, had £79 17s. in hand. On 5th June, Reeve filed the petition in bankruptcy, and on the following day gave the sheriff notice of that fact. That was within fourteen days of the receipt of the £79 17s. by the sheriff. On 6th August, 1925, the defendant filed his own petition in bankruptcy and an adjudication order was at once made on it as a matter of course, and Edgar W. Page was appointed the defendant's trustee in bankruptcy on 29th August. Within fourteen days, but more than fourteen days after the said execution, the sheriff received notice of this petition. He still held the money to await the issue of Reeve's bankruptcy petition, which was finally dismissed on 10th September, 1925, because the debtor was already a bankrupt. Mrs. Latter, as execution creditor, and the claimant, as trustee in bankruptcy, both claimed the money in the hands of the sheriff, who took out an interpleader summons. The county court judge gave judgment in favour of the execution creditor. The claimant appealed.

MACKINNON, J., in allowing the appeal, said that the question was whether the provision in s-s. (2) of s. 41 of the Bankruptcy Act, 1914, "or on any other petition," meant another petition of which the sheriff had had notice within fourteen days of the execution. The words of the section were not "or on any other petition of which the sheriff has notice within fourteen days," but of which "he has notice." It was unnecessary, and the whole purpose of the section showed it to be unnecessary, to add words not in the least required to carry out the clear meaning of the section. To add the words "within fourteen days," which was contended for on behalf of Mrs. Latter, the execution creditor, would be to defeat the obvious purpose of the section by a mere technicality. Reeve's petition would have resulted in a receiving order if the defendant had not filed his own petition on which the order had been made. He would have had no

doubt of the proper result of the appeal had not the attention of the court been drawn to the decision in *Watkins* v. *Barnard*, 1897, 2 Q.B. 521, where Vaughan Williams, J., as he then was, discussing, at pp. 526, 527, the words "of which the sheriff has notice" in the corresponding section (s. 11, s-s. (2)) of the Bankruptcy Act, 1890 (53 & 54 Vict. c. 71), did seem to think that they ought to have read into them the words "within fourteen days." Any expression of opinion or decision of that judge was entitled to and would receive the greatest respect. But he (Mackinnon, J.) was not sure that the expression of that view was not an *obiter dictum*, because the question there arose on a different matter, namely, whether an administration order had the same effect as a receiving order within the meaning of this section. He did not wish to base his judgment on that distinction. This court was not bound by that decision, and in his view it was not right to say that the words "within the said fourteen days" must be or should be added after the words "or on any other petition of which the sheriff has notice."

FINLAY, J., delivered a concurring judgment.

COUNSEL: For the appellant, *W. N. Stable*; for the respondent, *Enness*.

SOLICITORS: For the appellant, *Finnis, Downey, Linnell and Chessher* for *S. W. Page & Son*, Wolverhampton; for the respondent, *W. H. Speed & Co.*

[Reported by COLIN CLAYTON, Esq., Barrister-at-Law.]

Marylebone County Court.

Summers *v.* **Challenor.** 10th June.

ACTION FOR DETINUE—MSS. PLAYS SENT TO ACTOR—GRATUITOUS BAILEE.

If an author send MSS. plays to an actor, he is a gratuitous bailee; but if the actor write acknowledging and promises to read the play, he is under liability for its safe custody (per His Honour Judge Scully).

Cf. Coldman v. *Hill*, 1919, 1 K.B. 443.

During the month of March, 1925, John Summers, of Barry Dock, Glamorgan, author, forwarded to the Kingsway Theatre, MSS. of two plays entitled, "The Gay Spark" and "The Magic Mascot" to Mr. Bromley Challenor, who was taking a leading part in "Are you a Mason?" which was then being performed at the Kingsway Theatre. Mr. Bromley Challenor acknowledged receipt of the plays, and stated he would read them, but he would like to know what the author's intentions were. Did the author want to put the plays on himself, or did he want Mr. Bromley Challenor to put them on? And added: "However, will you let me know, and in the meantime I will read the scripts." The plays were lost. The plaintiff commenced an action in the Marylebone County Court for delivery up of the MSS. and in the alternative £20 damages. The plaintiff admitted that he had had the plays recopied by the Society of Authors at a cost of £3 9s. 9d. It was submitted on behalf of the defendant that he was a gratuitous bailee, and there was no duty cast upon a recipient with respect to goods sent to him voluntarily by another and unsolicited by the recipient: *Lethbridge* v. *Phillips*, 2 Stark., 544; and *Howard* v. *Harris*, Cababé & Ellis, 253. The defendant it was urged had hundreds of plays handed to him practically across the footlights. He was under no obligation to return them. If the plaintiff, unsolicited by the defendant, sent these MSS., he did so at his own risk. It was a trade custom that editors of newspapers were not liable to return, or for the safe custody of, MSS. sent to them and/or rejected. The acknowledgment by the defendant of the MSS. was an act of courtesy and no obligation or duty would appear to be cast upon him until plaintiff answered the question in the defendant's letter. This was a condition precedent. Plaintiff did not perform same, and defendant's status was that of a gratuitous bailee.

Counsel for plaintiff (in reply): There is an admission in defendant's letter that these goods have been received from the owner and the defendant is interested in these plays.

His Honour: I put that point to Mr. Bell for his consideration, and he urged that the plaintiff did not reply to defendant's question in defendant's letter, and until plaintiff did so there was no duty cast upon his client, the defendant. Is it reasonable to say there was any undertaking by the defendant? I won't go so far as to say there was any undertaking that he would read the play; merely an obligation of having received the goods. If a publisher sent a new work to me with the view of my purchasing it, does that cast any duty on me whatever?

Counsel for plaintiff: In this case it substitutes the offer to read the play. If he had not offered to read the play, then the defendant need have done nothing with the goods.

His Honour: It depends what construction I must put on this letter.

Counsel for plaintiff: He constituted himself a custodian of this play for the time being. I submit there was an obligation when he received it to take care of it.

His Honour: At the most, it imposes an obligation to take care of it until the plaintiff calls for it—merely to wait until he calls for it.

Counsel for plaintiff: The defendant should be in a position to say "Here they are."

His Honour: Then what does the duty consist of when he takes custody of the play?

Counsel for plaintiff: It is acknowledged in defendant's letter that he was taking the plays and going to consider them, and that seems to have been the defendant's attitude, that they were in his custody and he was going to look over them and return them. It is no longer an obligation but a duty, and consequently he would naturally return them.

His Honour: Do you press this point against him?

Counsel for plaintiff: My client considers he is entitled when the defendant has taken charge of these plays to require him to take care of them. As regards the value of these goods, the cost of retyping amounts to £3 9s. 9d.

His Honour: It is a curious point, and I cannot help thinking a duty is cast upon the defendant to take care of the play, and the plaintiff is entitled to recover. It seems, upon this letter of the defendant, there was a promise in consideration of having received the play and of the prospect of producing it, to read it. He kept it some time. During that time, it is obvious he must have custody of it, and there must be some care taken, and there must be some duty in addition co-existent with that care—I need not go into the extent or how it arose, but it obviously lies upon the defendant to explain how the documents were lost. I must find he has been guilty of some breach of duty and is liable to the plaintiff. As regards the value, plaintiff says it has cost him £3 9s. 9d. to retype them. There will be a verdict for the plaintiff for £3 9s. 9d., and inasmuch as there is a point of law of some importance involved, I allow counsel's fee.

Hugh Lloyd-Williams (instructed by *Field, Roscoe & Co.*) for the plaintiff; *Edward Bell* (*Carter & Bell*), solicitor for the defendant.

LEGAL AID FOR THE POOR.

Mr. VIANT (Willesden, W., Lab.) asked the Home Secretary, on Monday last, whether it was his intention to introduce legislation based on the first report of Mr. Justice Finlay's Committee on Legal Aid for the Poor, or whether it was proposed to wait until the issue of the second report.

Sir W. JOYNSON-HICKS: I propose to await the issue of the second report, when the matter, so far as legislation is required, can be dealt with as a whole. Effect can be given without legislation to some of the recommendations of the Committee in their first report, and these are now under consideration.

Rules and Orders.

THE INDICTABLE OFFENCES RULES, 1926. DATED JUNE 11, 1926.

1. These Rules may be cited as the Indictable Offences Rules, 1926.

2. These Rules shall come into operation forthwith.

3. The Examining Justices or Justice by whom a person accused of an indictable offence is committed for trial shall endorse upon the warrant of commitment a notice stating the Court at which the person bound over to prosecute is bound over to appear.

4. When a witness has been bound over, conditionally or otherwise, to appear at the Court of Trial of a person accused of an indictable offence and the Examining Justices subsequently discharge that person, notice in writing shall be given to such witness forthwith informing him that the person has been discharged and that consequently the witness is not required to appear at the Court of Trial.

5. When a witness has been bound over, conditionally or otherwise, to appear at the Court of Trial of a person accused of an indictable offence and the Examining Justices subsequently commit that person for trial at a Court other than the Court at which the witness has been bound over to appear, notice in writing to that effect shall be given forthwith to such witness.

6. When a witness has been bound over to appear at the Court of Trial of a person accused of an indictable offence and the Examining Justices subsequently direct that such witness shall be treated as having been bound over to attend the trial conditionally, notice in writing to that effect shall be given forthwith to such witness.

7. Any notice in writing required by Rules 4, 5 & 6 to be given to a witness by the Examining Justices shall be signed by one or more Examining Justices or by their Clerk and shall be served in the manner applicable to a witness summons.

8.—(1) When a witness has been bound over to attend the trial conditionally upon notice being given him or is to be treated as having been so bound over in accordance with subsection (1) of section 13 of the Criminal Justice Act, 1925,(*a*) and notice is subsequently given to the Clerk to the Examining Justices by or on behalf of, the prosecutor or the person committed for trial that the attendance of such witness at the trial is required, the Clerk to the Examining Justices shall forthwith issue a notice in writing that such witness is required to appear at the Court of Trial in pursuance of his recognizance, and cause it to be served upon such witness in the manner applicable to a witness summons, or, if time does not so permit, notice may be given to such witness in such way as the circumstances may render expedient.

(2) When a Clerk to Examining Justices issues such notice at the instance of the prosecutor he shall inform the person committed for trial thereof; and when he issues it at the instance of the person committed for trial, he shall inform the prosecutor thereof.

9.—(1) A statement containing the names, addresses and occupations of any witnesses who have been, or are to be treated as having been bound over to attend the trial conditionally, shall be transmitted to the Clerk of Assize or Clerk of the Peace, as the case may be, with the depositions and a copy of the statement shall be retained by the Clerk to the Examining Justices.

(2) In any such statement the Clerk to the Examining Justices shall distinguish the names of the witnesses, if any, to whom notice has been issued by him requiring them to attend the trial and shall state the date of such notice; and if any such notice is issued after the statement has been so transmitted, the Clerk to the Examining Justices shall send notice thereof to the Clerk of Assize or the Clerk of Peace, as the case may be.

10. The consent of the prosecutor or the Director of Public Prosecutions requires by provisos (A) or (B) to subsection (1) of section 24 of the Criminal Justice Act, 1925,(*a*) (which relate to the summary disposal of certain indictable offences where the property or affairs of His Majesty or a public body is affected, or where the prosecution is being carried on by the Director of Public Prosecutions) may be signified in writing: and any document purporting to be such consent and to be signed by the prosecutor or the Director, or an Assistant Director, of Public Prosecutions, as the case may be, shall be admissible as *prima facie* evidence without further proof.

11. Any summons addressed to a corporation or other document may be served upon the corporation by leaving it at, or sending it by post to, the registered office of the corporation or, if there be no such office in England, by leaving it at, or sending it by post to, the corporation at any place in England at which it trades or conducts its business.

(*a*) 15-6 G. 5, c. 86.

12. The forms in the Schedule hereto, or forms to the like effect, may be used with such variations as circumstances may render expedient.

13. Forms M, N, O(1) and O(2) in the Schedule to the Indictable Offences Act, 1848,(*b*) are hereby annulled.

Dated the 11th day of June, 1926.

Cave C.

(*b*) 11-2 V. c. 42.

SCHEDULE.

(M) Indictable Offences Act, 1848, section 17: Criminal Justice Act, 1925, sections 12 and 13.

Depositions of Witnesses.

to wit. { The examination of *C.D.*, of , *farmer*, and *E.F.*, of , *labourer*, taken on oath this day of , in the Year of Our Lord, , at , in the *county* aforesaid, before the undersigned, *one* of His Majesty's Justices of the Peace for the said *county*, in the presence and hearing of *A.B.*, who is charged this day before *me*, for that *he*, the said *A.B.*, on at [*etc., stating the offence, as in a warrant of commitment*].

This deponent, *C.D.*, on his oath, saith as follows: [*etc., stating the deposition of the witness as nearly as possible in the words he uses. When his deposition is complete and after it has been read over to him in the presence and hearing of the Accused, he is required to sign it.*]

And this deponent, *E.F.*, upon his oath, saith as follows: [*etc.*].

I hereby certify that the above depositions of *C.D.* and *E.F.* were taken and sworn before me in the presence of the said *A.B.*, and that the said *A.B.* or *his* counsel or solicitor had full opportunity of cross-examining the several witnesses, at , on the day and year first above mentioned.

J.S.

(N) Criminal Justice Act, 1925, section 12.

Statement of the Accused.

A.B. (hereinafter called the Accused) stands charged before the undersigned, *one* of His Majesty's Justices of the Peace, in and for the *county* aforesaid, this day of , in the Year of Our Lord One Thousand Nine Hundred and , for that *he*, the Accused did*

;

And the Witnesses for the prosecution having been severally examined in the presence of the Accused;

And the said charge being read and its nature explained in ordinary language to the Accused;

And the Accused being informed of *his* right to call witnesses, and, if *he* desires, to give evidence on *his* own behalf;

And the Accused being given clearly to understand that *he* has nothing to hope from any promise of favour and nothing to fear from any threat which may have been held out to him to induce *him* to make any admission or confession of *his* guilt, but that whatsoever *he* says may be given in evidence on *his* trial notwithstanding the promise or threat;

The Accused is now addressed by me, the undersigned, as follows:

"Do you wish to say anything in answer to the charge?

"You are not obliged to say anything unless you desire to do so, but whatever you say will be taken down in writing, and may be given in evidence upon your trial."

Whereupon the Accused saith as follows† :—

A.B.§

(*form continued*)

The Accused having made the statement above set out [*or* not having made any statement] in answer to the charge;

And the Accused being asked by me, the undersigned, whether *he* desires to give evidence on *his* own behalf, and whether he desires to call witnesses;

The Accused saith as follows**:—

TAKEN and done before me, at , the day and year first above mentioned.

J.S.

* Here state the offence as in the caption of the depositions.

† The actual words of the Accused should be recorded as nearly as possible.

§ The above statement should first be read over to the Accused, and he should then be told that he may sign it, if he desires. He should be encouraged to do so.

** Here set out any statement made by the Accused in reply to the question.

(*To be continued.*)

Legal Notes and News.

Appointments.

The King has been pleased to appoint Sir ALFRED AMBERSON BARRINGTON MARTEN, LL.D., barrister-at-law—Puisne Judge of the High Court of Judicature at Bombay—to be Chief Justice of that court, in the place of Sir Norman Cranstoun Macleod, who has retired. Sir Alfred was called by the Inner Temple in 1895, and has been Puisne Judge since 1916.

Mr. HERBERT A. BELL, solicitor, of 7, Lord Street, Gainsborough, has been appointed Registrar of the Gainsborough County Court. Mr. Bell—who was admitted in 1893—also holds the appointment of Clerk to the Misterton Rural District Council.

The Lyon King of Arms has appointed Mr. THOMAS INNES, of Learney House, Torphins, and Kinnairdy Castle, to be Carrick Pursuivant, in place of the late Sir Duncan Campbell, of Barcaldine. Mr. Innes, who is a member of the Scottish Bar, is one of the principal landowners in Aberdeenshire.

Mr. Lionel A. Venables, assistant solicitor in the office of Mr. Preston Kitchen, O.B.E., town clerk of Middlesbrough, has been appointed deputy town clerk of that county borough. Mr. Venables was admitted in 1925.

Professional Information.

We are asked to state, to avoid any confusion due to the similarity in the name and address—that Mr. W. J. ANGELO DRAKE, solicitor, of 40, Chancery Lane, is in no way related to or connected with Mr. William Drake, solicitor, of 45, Chancery Lane, who was recently suspended from practising for twelve months.

Messrs. MILLS, LOCKYER, CHURCH & EVILL, announce that they have changed their address from No. 5 Finsbury-square, to No. 29, Finsbury-square, E.C.2. Telephone numbers will remain the same.

Messrs. GARD, LYELL & Co., solicitors of 2, Gresham-buildings, E.C.2, have removed to 47, Gresham-street, E.C.2.

Wills and Bequests.

Mr. Thompson Jowett, Savoy-court, Strand, left estate of the gross value of £721,370, with net personalty £694,473. He left, *inter alia*, to Leonard Johnson Clegg, solicitor, of Sheffield, £500 as executor, an annuity of £400 (later to be reduced to £200), whilst acting as executor, in addition to professional charges, and he left two sixty-fourths of his residuary estate to the children of the said Leonard Johnson Clegg.

Mr. William Arthur Emsley, of Pump-court, Temple, E.C., barrister-at-law, who died on 18th May, left estate of the value of £58,365. He left:—£500 (payable in five annual instalments) to the Barristers' Benevolent Association; an annuity of £50 to Martha Wills, laundress, now or formerly attending his chambers; and a legacy of £50 to Mrs. Randall or other the laundress attending his chambers at the time of his death.

Mr. Henry Merivale Trollope, of Greylands, Minchinhampton, Gloucestershire, who was called to the Bar at Lincoln's Inn in 1869 (afterwards joining the firm of Messrs. Chapman and Hall), author of a study of Corneille and Racine and afterwards of a biography of Molière, who died on 24th March, aged eighty, elder son of Anthony Trollope, the novelist, left estate of the gross value of £6,734.

Mr. Charles Blomfield Freeman, solicitor, of Mitcham Park, Mitcham, S.W., and of Abchurch-lane, E.C., left estate of the gross value of £1,109.

Mr. James Rowan Herron, M.A., LL.M., solicitor, of The Briars, Freshfield, Lancs, and of Sweeting-street, Liverpool, who died on 3rd February, aged fifty-six, left estate of the gross value of £14,801. He left (*inter alia*): £100 to his clerk, Arthur Edward Kirk, if still in his service, in recognition of his long and faithful service.

Mr. Colin Campbell McCulloch, solicitor, of Canberra-road, Gretna, Dumfries, left estate of the gross value of £3,949.

Property Mart.

The attention of our readers is directed to the announcement on page xii of an important sale by Messrs. Hampton & Sons, on Tuesday, the 13th July, of the unexpired lease (about 43 years) of an imposing town residence, known as 56, Upper Brook Street, W.1.

BRITISH FIRM'S WAR CLAIM DISALLOWED.

The Anglo-German Mixed Arbitral Tribunal (First Division) sitting in London, dismissed the claim of Messrs. Charles Semon & Co., British nationals, against the German Government under the provisions of Art. 297 (*e*) of the Treaty of Versailles for compensation for alleged war measures directed against goods consigned to the Continent of Europe on various dates in July, 1914.

It appeared that the claimants consigned goods to the Continent on account of purchasers in various countries in July, 1914. Parts of the claim relating to goods seized in Antwerp and other goods destroyed in Belgrade were abandoned during the hearing of the claim. Goods were also consigned to Rumania and to Italy. The fate of the Italian consignment has not been fully elucidated, but the facts relating to the Rumanian consignment were fully before the Tribunal. These goods were consigned to agents of the claimants at Hamburg, or Stettin, under bills of lading, and by the agents were forwarded to either the Vitesa Transport Gesellschaft, Bucharest, or Messrs. Wescler and Zwoelfer, Bucharest. On account of the outbreak of the war, however, none of the goods in question left German territory, and they were requisitioned on various dates in 1916 and 1917 by the German Government. The question before the Tribunal was whether the property in these goods had passed to Rumanian nationals, in which case the claimants would have no right of action.

The claimants said the terms of the contract were that the property in the goods was not to pass until the purchasers had inspected them in Rumania, and, after inspection, had given bills of exchange to their agents. The German Government agent said that in 1915 attempts were made on behalf of the Rumanian purchasers to obtain their release from Germany, invoices being produced showing receipts for the purchase price signed by the claimants. Later, the Rumanian purchasers had attempted to obtain compensation from the German Government. In reply, the claimants stated that in fact they at no time received the moneys the receipt of which they had acknowledged in this fashion. The receipts were brought into existence merely to obtain the release of the goods from Germany.

The Tribunal, in their judgment, said the contract was governed by s. 17 (1) of the Sale of Goods Act, 1893, which said that the property in ascertained goods was transferred to the buyer at such time as the parties to the contract intended it to be transferred. For the purpose of ascertaining the intention of the parties regard should be had to the terms of the contract, the conduct of the parties, and the circumstances of the case. Here it was not clear, either from the invoices or from the manner in which the goods were forwarded after they had reached the European port, whether the property was intended to pass in July, 1914. Both the claimants as vendors and their Rumanian buyers, had, however, subsequently dealt with the goods as having become the property of the Rumanian buyers, who claimed the goods as their property, the claimants assisting them in this by giving receipts for payment. The Tribunal, therefore, were of opinion that when the goods were seized in 1916 and 1917 they were no longer the property of the claimants, who, therefore, could not recover compensation in respect of their seizure. As to the Italian goods, the Tribunal gave directions to the claimants to state the exceptional war measures which they alleged had been applied to the goods by the German Government.

FINGER PRINTS AFTER DEATH.

At an inquest at Poplar on the body of a woman found in the Thames on 7th June, Detective-inspector H. Travers stated that the woman's identity had been established by means of finger prints which he had taken. The practice of taking finger prints from dead persons whose identity was unknown had he said been in operation for five or six years, but this was the first case recorded in which a person had been identified by that means. The finger prints in this case were sent to Scotland Yard, and identified with those of a woman who on one occasion, at least, had given the name of Saville Thurlow Bartlett, but she was stated to be Edith Mary Webster, aged thirty-two. The coroner recorded an open verdict.

FATE OF AN ARBITRATION TREATY.

Dr. R. McN. McElroy, Harmsworth Professor of American History at Oxford, delivered at Bristol University, on Monday last, the sixth Watson Chair Lecture for 1926, entitled, "A Vision Postponed: Grover Cleveland's British-American General Arbitration Treaty Killed by the Senate."

He said that President Cleveland from the beginning of his national career had worked for the adoption of a general arbitration treaty with Great Britain. Before the Venezuelan incident in 1895 was terminated by peaceful arbitration, Lord Salisbury instructed the British Ambassador at Washington, Sir Julian Pauncefote, to renew the suspended negotiations with reference to a general arbitration treaty, the first of its kind in history, and the treaty which was concluded and signed on 11th January, 1897, preliminary to ratification, bound Great Britain and the United States to submit to final ratification "all questions in difference between them which they may fail to adjust by diplomatic negotiation." It was even affirmed that "no reason is perceived why the pending Venezuelan boundary dispute should not be brought within the treaty by express words of inclusion." In the history of the United States the Senate had proved the burial place of many visions. Cleveland's "epoch-maker" was automatically referred to the Senate Committee on Foreign Relations, and in February, 1897, was favourably reported on; but the end of the session was near, and the inauguration of a Republican President only a month away, and the treaty was referred back by the Senate to the Committee for further consideration. In his inaugural address, Mr. McKinley urged ratification, but his voice proved not strong enough to summon in the dawn. On 18th March, 1897, the Committee on Foreign Relations again reported favourably on the treaty: but on 5th May, after a protracted debate, during which localism dominated all else, it was rejected, only forty-three Senators voting in favour of what Senatorial amendment had left. Since then the world had marked many milestones of progress towards the vision thus postponed. Arbitration through organized international machinery had demonstrated new possibilities.

TWO AGRICULTURAL BILLS.

The Land Drainage Bill came before Standing Committee D, under the presidency of Colonel Nicholson, on Monday last. The Bill provides for the transfer to county councils and county boroughs powers now exercised by the Ministry of Agriculture to take over the drainage of land in cases where drainage authorities are not functioning or not functioning to a sufficient extent.

Mr. Noel Buxton described the Bill as modified by the Lords as a surrender to a coterie of feudal landlords. The Bill was passed, with minor amendment, several other amendments being rejected, and was ordered for Report stage.

Standing Committee D also considered on Monday last the Markets and Fairs (Weighing of Cattle) Bill, which had come down from the Lords, and passed it without amendment for Report. An amendment moved by Mr. Noel Buxton to include swine was rejected.

HEAVY DAMAGES FOR ALIENATING A HUSBAND.

A New York jury has awarded Mrs. Elsie Hinman Dula £20,000 damages against her mother-in-law, Mrs. Josephine Dula, widow of Robert Dula, former vice-president of the American Tobacco Company. Young Mrs. Dula had sued her mother-in-law for alleged alienation of the affections of the plaintiff's husband, Robert Lenoir Dula, son of the defendant. Mrs. Elsie Dula originally brought an alienation suit for £50,000 against both her father-in-law and her mother-in-law. Her father-in-law died last April, and Mrs. Josephine Dula thus became the sole defendant. Before her marriage to the defendant's son on 30th December, 1919, the plaintiff was the wife of Charles Lewis, whom she divorced eleven days before she married young Dula.

According to the evidence the young couple infringed the Prohibition Act by drinking champagne, and each had made an effort to have the other placed in a sanatorium.

THE HOUSING SUBSIDY.

Mr. Neville Chamberlain and Sir Kingsley Wood conferred, on June 18th, at the Ministry of Health with representatives of the Association of Municipal Corporations on the subject of the housing subsidy, which, under the provisions of the Housing Act, 1924, is due to come under review next October. The actual decision regarding the future amount of the subsidy will not be taken until the autumn, but the Act provides for consultation with the local authorities, and the discussions just initiated by the Minister of Health are therefore a necessary preliminary to the Government's consideration of the question. A further conference with the Association will be arranged after a short interval.

THE LORD CHANCELLOR ON THE LAW AND PUBLIC CONTROVERSY.

The Lord Mayor and the Lady Mayoress gave the customary dinner at the Mansion House on Friday, the 18th inst., to His Majesty's judges, there being a large and representative gathering of the legal profession.

The Lord Chancellor, responding to the toast of his health, proposed by the Lord Mayor, said that even with the valued help of Lord Haldane, he (Lord Cave) had to provide for the manning of three supreme tribunals of appeal which normally absorbed fifteen members, whereas there were now only nine regular members upon whom he was entitled to call. Parliament had before it a proposal for making a further addition to the number of judges experienced in Indian law who sat upon the Privy Council, and a time would probably come when they would have to go to Parliament for a permanent increase in the number of Lords of Appeal-in-Ordinary.

In conclusion, Lord Cave paid a high tribute to the work of county court judges, the magistrates, and to the solicitors' branch of the legal profession, who, he said, during the past year had, with great public spirit and self-denial, undertaken the laborious task of giving gratuitous help to the poorer litigants.

Alluding to recent events, Lord Cave said it had long been true that the impartiality and the sturdy independence of our judges had won the admiration of the whole world. He thought he might say that a judge—a Chancery judge knew no more about political controversies than he knew about the saxophone (laughter); but it might happen even in our day that the quiet decision of a judge—and perhaps of a Chancery judge—given in the ordinary course of his day's work and expounding our ordinary law might help to open men's eyes to grave realities of wide application. If that had happened, it was not the first occasion on which an exposition of our somewhat dusty rules of law had helped to stay the spread of a great controversy. (Cheers).

Sir Edward Clarke, K.C., who had an enthusiastic reception, proposed the toast of "His Majesty's Judges."

The Lord Chief Justice (Lord Hewart), in responding, said that in the present sittings the King's Bench Division had started with a list of between 600 and 700 cases, and they had already disposed of well over 200 of them. They had more than kept pace with the additions, and it was gratifying to find that the suggestion was not made there that that had been because the work had fallen off.

The Master of the Rolls (Lord Hanworth) submitted the toast of "The Profession of the Law," to which the Attorney-General (Sir Douglas Hogg) and the President of the Law Society (Sir Herbert Gibson) replied.

MAINTENANCE ORDERS (FACILITIES FOR ENFORCEMENT) ACT 1920.

It is announced by the Dominions Office that an Order in Council has been issued extending the provisions of the above Act to Victoria. The Act provides for the enforcement in England and Ireland of maintenance orders made by a court in any part of His Majesty's Dominions outside the United Kingdom, or in any British Protectorate to which it extends, and the Legislature of the State of Victoria, to which it has now been extended, has made reciprocal provisions for the enforcement therein of maintenance orders made by courts in England and Ireland.

The operation of the above-mentioned Order in Council is at present confined to England and Northern Ireland.

LAND REGISTRY FEE STAMPS.
LAND CHARGES ACT, 1925.

Considerable inconvenience is caused to solicitors throughout England and Wales by having to send small sums by post to H.M. Land Registry in payment for registrations and searches under the Land Charges Act, 1925.

The Chief Land Registrar has therefore arranged with the Postmaster-General, on and after the 1st June, 1926, for Land Registry Fee Stamps to be on sale at head post offices in England and Wales, and also at local sub-offices, which transact money order business, and where the local demand is sufficient in volume to justify a stock being held. The denominations normally available will be 6d., 1s. and 2s. Any stamps which are urgently required and are not in stock at any office when applied for can be requisitioned specially by telegram, if the applicant so desires, and bears the cost of the telegram.

These stamps are adhesive and should be attached to the forms of applications on the space at the top of the forms provided for that purpose. No space is provided on the present form of application for an official search, as adhesive stamps were not contemplated when these were printed. On reprints space for adhesive stamps will be provided. Meanwhile they may be attached anywhere on the top of the form.

PROVINCIAL AND DOMINION TAXATION.

The appeal of the Attorney-General of British Columbia in the fuel oil tax cases against the Canadian Pacific and Union Steamship Companies has been dismissed by the Provincial Court of Appeal.

Payment was demanded by the Province under the fuel oil tax of 1923, the companies arguing that the tax was *ultra vires* the Provincial Legislature because it was an indirect encroachment on the field reserved for the Dominion. The Province will lose revenue of $400,000 (£80,000) yearly.

The gasoline tax of the same year, though not involved in this case, is also subject to attack on similar grounds. It yielded nearly $500,000 last year. The fuel oil tax case is being carried to the Privy Council.

JUDICIAL COMMITTEE BILL.

The Judicial Committee Bill has passed through Committee with only one amendment, which was proposed by the Lord Chancellor, to provide that a vakil as well as an advocate of not fewer than fourteen years' standing who was practising or had practised in British India, should be eligible for appointment to the Judicial Committee of the Privy Council. The Bill, as amended, was reported to the House.

At the sale by auction announced in the SOLICITORS' JOURNAL, of the 5th inst., of the following freehold properties, viz.: 1 to 7 (inclusive) Pheasant Cottages, Vauxhall Walk; 21 to 25 (inclusive) Andersons Walk, and Nos. 60 to 62 and 66 Vauxhall Walk, Messrs. John Lister & Co., the auctioneers, disposed of the whole property in one lot for £2,250.

The Kempshott and Dummer Estate in Hampshire, which was put up for sale by auction at the Mart, on the 9th inst., by Messrs. Daniel Smith, Oakley and Garrard (as announced in the SOLICITORS' JOURNAL, of 15th May last), was purchased by Messrs. Fox and Co., Bournemouth acting on behalf of a client for £27,500.

Court Papers.

Supreme Court of Judicature.

ROTA OF REGISTRARS IN ATTENDANCE ON

Date.	Emergency Rota.	Appeal Court No. 1.	Mr. Justice Eve.	Mr. Justice Romer.
M'nd'y June 28	Mr. Bloxam	Mr. Synge	Mr. Bloxam	Mr. Hicks Beach
Tuesday .. 29	Hicks Beach	Ritchie	Hicks Beach	Bloxam
Wednesday 30	Jolly	Bloxam	Bloxam	Hicks Beach
Th'day July 1	More	Hicks Beach	Hicks Beach	Bloxam
Friday 2	Synge	Jolly	Bloxam	Hicks Beach
Saturday .. 3	Ritchie	More	Hicks Beach	Bloxam

Date	Mr. Justice Astbury.	Mr. Justice Lawrence.	Mr. Justice Russell.	Mr. Justice Tomlin.
M'nd'y June 28	Mr. Ritchie	Mr. Synge	Mr. Jolly	Mr. More
Tuesday .. 29	Synge	Ritchie	More	Jolly
Wednesday 30	Ritchie	Synge	Jolly	More
Th'day July 1	Synge	Ritchie	More	Jolly
Friday 2	Ritchie	Synge	Jolly	More
Saturday .. 3	Synge	Ritchie	More	Jolly

Stock Exchange Prices of certain Trustee Securities.

Bank Rate 5%. Next London Stock Exchange Settlement, Thursday, 8th July, 1926.

	Middle Price 23rd June	Interest Yield. £ s. d.	Yield with Redemption. £ s. d.
English Government Securities.			
Consols 2½%	55⅝	4 10 0	—
War Loan 5% 1929-47	100⅛	4 19 0	4 19 0
War Loan 4½% 1925-47	95½	4 14 6	4 17 6
War Loan 4% (Tax free) 1929-47	100⅜	4 0 0	3 19 0
War Loan 3½% 1st March 1928	98½	3 11 6	4 17 0
Funding 4% Loan 1960-90	86½	4 12 6	4 13 6
Victory 4% Bonds (available for Estate Duty at par) Average life 35 years	93⅛	4 6 0	4 8 6
Conversion 4½% Loan 1940-44	96⅛	4 13 6	4 16 0
Conversion 3½% Loan 1961	75½	4 13 0	—
Local Loans 3% Stock 1921 or after	63⅝	4 15 0	—
Bank Stock	256	4 14 0	—
India 4½% 1950-55	90½	4 19 6	5 3 0
India 3½%	69½	5 0 6	—
India 3%	59½	5 1 0	—
Sudan 4½% 1939-73	92⅜	4 17 0	4 19 0
Sudan 4% 1974	85¾	4 13 6	4 17 6
Transvaal Government 3% Guaranteed 1923-53 (Estimated life 19 years)	79¾	3 15 0	4 12 6
Colonial Securities.			
Canada 3% 1938	82¾	3 12 6	4 19 0
Cape of Good Hope 4% 1916-36	92	4 7 0	5 1 6
Cape of Good Hope 3½% 1929-49	78¼	4 9 6	5 2 0
Commonwealth of Australia 5% 1945-75	100	5 0 0	5 0 0
Gold Coast 4½% 1956	94	4 15 6	4 18 6
Jamaica 4½% 1941-71	92½	4 17 0	4 17 0
Natal 4% 1937	91¾	4 7 0	4 19 0
New South Wales 4½% 1935-45	90	5 0 0	5 5 0
New South Wales 5% 1945-65	98	5 2 0	5 2 6
New Zealand 4½% 1945	95	4 15 0	5 0 0
New Zealand 4% 1929	96⅜	4 3 0	5 1 6
Queensland 3½% 1945	75¾	4 12 6	5 10 0
South Africa 4% 1943-63	86¼	4 12 6	4 17 0
S. Australia 3½% 1926-36	85	4 2 6	5 7 6
Tasmania 3½% 1920-40	82¾	4 4 6	5 4 0
Victoria 4% 1940-60	82½	4 17 0	5 0 6
W. Australia 4½% 1935-65	89¾	5 0 0	5 2 0
Corporation Stocks.			
Birmingham 3% on or after 1947 or at option of Corpn.	62½	4 16 0	—
Bristol 3½% 1925-65	75¾	4 12 6	5 0 0
Cardiff 3½% 1935	87	4 0 6	5 2 6
Croydon 3% 1940-60	67⅜	4 9 0	5 1 0
Glasgow 2½% 1925-40	76½	3 6 0	4 16 0
Hull 3½% 1925-55	75¾	4 13 0	5 1 6
Liverpool 3½% on or after 1942 at option of Corpn.	72½	4 17 0	—
Ldn. Cty. 2½% Con. Stk. after 1920 at option of Corpn.	52¼	4 15 0	—
Ldn. Cty. 3% Con. Stk. after 1920 at option of Corpn.	63½	4 14 6	—
Manchester 3% on or after 1941	63	4 15 6	—
Metropolitan Water Board 3% 'A' 1963-2003	63	4 15 0	4 16 0
Metropolitan Water Board 3% 'B' 1934-2003	64¾	4 12 6	4 15 0
Middlesex C. C. 3½% 1927-47	79½	4 8 0	5 0 6
Newcastle 3½% irredeemable	72xd	4 17 0	—
Nottingham 3% irredeemable	62½	4 16 0	—
Plymouth 3% 1920-60	67¼	4 9 6	5 0 6
English Railway Prior Charges.			
Gt. Western Rly. 4% Debenture	83½	4 15 6	—
Gt. Western Rly. 5% Rent Charge	101	4 19 0	—
Gt. Western Rly. 5% Preference	97	5 3 0	—
L. North Eastern Rly. 4% Debenture	80	5 0 0	—
L. North Eastern Rly. 4% Guaranteed	77	5 4 0	—
L. North Eastern Rly. 4% 1st Preference	70	5 14 0	—
L. Mid. & Scot. Rly. 4% Debenture	82	4 17 6	—
L. Mid. & Scot. Rly. 4% Guaranteed	80	5 0 0	—
L. Mid. & Scot. Rly. 4% Preference	76	5 5 6	—
Southern Railway 4% Debenture	83¼	4 16 0	—
Southern Railway 5% Guaranteed	100½	4 19 6	—
Southern Railway 5% Preference	97	5 3 0	—